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ABSTRACT

This document contains testimony, prepared statements, letters, and supplemental materials submitted during six days of hearings held in June, 1977. Under consideration was a five-year extension of the Impact Aid program that compensates school districts for educating children who are in an area as a result of federal activities. Primarily, the program compensates for the loss in tax base of federal property. William L. Stormer, program director, reviewed the status of the Impact Aid program, especially as it was amended by the Education Amendments of 1974, and testified concerning the complexities of the law and the resulting major administrative problems. James D. Martin testified on the findings of an assessment by the General Accounting Office of the Impact Aid program. Subsequent testimony was from parents and officials from impacted area schools concerning their problems with suggestions for amendments to the law. Also discussed were disaster assistance provisions, and schools totally paid by the U.S. Office of Education under the Impact Aid laws but which are administered by other federal agencies, with special emphasis on problems existing at Fort Buchanan in Puerto Rico. Further testimony focused on the provision of the Impact Aid laws affecting children from federally assisted low rent housing units, handicapped children of military parents, and Indian children. (MLF)

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PART 5: IMPACT AID

ED168127

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 15

TO EXTEND FOR FIVE YEARS CERTAIN ELEMENTARY,
SECONDARY, AND OTHER EDUCATION PROGRAMS

HEARINGS HELD IN WASHINGTON, D.C.
JUNE 21, 22, 23, 28, 29, 30, 1977

Printed for the use of the Committee on Education and Labor
CARL D. PERKINS, *Chairman*

U.S. DEPARTMENT OF HEALTH,
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PART 5: IMPACT AID

TUESDAY, JUNE 21, 1977

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor,
Washington, D. C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in Room 2175, Rayburn House Office Building, the Hon. Carl D. Perkins, presiding.

Members present: Representatives Perkins, Blouin, Simon, Mottl, Le Fante, Heftel and Quie.

Staff present: John F. Jennings, majority counsel; Nancy L. Kober, staff assistant; and Christopher T. Cross, minority senior education consultant.

Chairman **Perkins**. The Subcommittee on Elementary, Secondary and Vocational Education is today beginning two weeks of oversight hearings on the Impact Aid laws. The hearings are a continuation of hearings on H. R. 15, a bill to extend for five years certain elementary and secondary education programs that expire at the end of fiscal year 1978.

The Impact Aid programs under Public Law 81-874 and Public Law 81-815 provide financial assistance to local educational agencies in areas affected by Federal activities. Appropriations for the 874 and 815 programs totaled $793 million in fiscal year 1977 and will affect over 4500 public school districts.

In recent weeks there has been much discussion about the impact aid program, as the Appropriations Committee and the House dealt with funding for fiscal year 1978. The last time our committee looked at the program very comprehensively was prior to the Education Amendments of 1974. In the amendments included in that law, P.L. 93-380, Congress substantially revised the impact aid legislation. I feel it is important, as we prepare for reauthorization legislation next year, to again look at this program in depth and focus on the effects of those amendments.

Today we will be hearing from Mr. William Stormer, Director, Division of School Assistance in Federally Affected Areas in the Office of Education, who will provide an overview of the 874 programs and discuss the implementation of these 1974 amendments.

In October of 1976, the General Accounting Office carried out an assessment of the impact aid program. As part of this assessment, GAO analyzed the economic impact of federally connected children, and also the administration of the program. We have as a second witness this morning, Mr. James D. Martin, Deputy Director, Human Resources Division of the General Accounting Office, who will testify on the findings of this GAO assessment.

I do want to state I am one of the few members in the Congress presently serving who was here when we wrote the impact aid legislation back in 1949 and 1950. At that time, within 40 miles of Fort Knox, Kentucky, there were some old NRA buildings. Because of the Fort Knox situation the impact was so heavy in that area that it was really necessary to pass 815 and 874.

I still feel that this has been very useful throughout the years.

I am hoping somewhere along the line that the federal government becomes a better partner with the local educational agencies and the states in the area of financing education. This may be a vehicle whereby we could go to some form of general federal aid to education.

I am delighted to welcome here this morning our first witness, Dr. William L. Stormer, Director of the Division of School Assistance in Federally Affected Areas, Bureau of Elementary and Secondary Education, U.S. Office of Education.

STATEMENT OF WILLIAM L. STORMER, DIRECTOR, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U.S. OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, ACCOMPANIED BY LINDA CHAVEZ, SPECIAL ASSISTANT TO THE DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (EDUCATION), HEW AND DR. ALBERT L. ALFORD, ASSISTANT COMMISSIONER FOR LEGISLATION, U.S. OFFICE OF EDUCATION

Mr. Stormer. Mr. Chairman and members of the subcommittee, it is my pleasure to appear before you this morning to review the status of the Impact Aid program, especially as it was amended by P.L. 93-380, the Education amendments of 1974.

The Education Amendments of 1974 revised substantially the P.L. 81-874 authorization language. Entitlement formulas and methods of making payments were drastically changed. As a result, what was a complex law was made even more complex and confusing to both applicants and administrators. The amendments have presented major administrative problems. They have made it necessary for us to rely heavily on automated data processing systems. Such dependence on automated systems has made it difficult to pay local educational agencies on a timely basis.

The addition of categorical aid within the same formula that otherwise provides general use funds has created many problems and, we fear, the poor use and perhaps even poorer monitoring of funds vitally needed in the essential areas for which they were intended.

The hold-harmless provisions require very complicated formulas to produce payments that are then subject to change for several years. This is compounded by the fact that each change alters the payments in succeeding years as well.

We have spent considerable time in developing criteria for evaluating the various state equalization programs to determine their effect on P.L. 874 school districts.

Today we will provide more detail concerning the problems we've encountered in at least these major areas. Before we do this, it might be helpful to identify the major changes brought about by the Education Amendments of 1974. These include:

Creation of several subcategories of A children;

Creation of several subcategories of B children to provide varying local contribution rates for children who reside on federal property only, those whose parents are employed in the same county as the school district, those employed out of the county but in the same state, and those in the uniformed services;

Exclusion from A and B categories children whose parents are employed outside the state of the school district;

Counting all children who reside on Indian lands in the A category regardless of the employment status of their parents;

Addition of a payment for handicapped children residing on Indian lands (A category) equal to one and a half times the usual rate if a special program for their educational needs is being provided;

Addition of a payment for handicapped children of parents in the uniformed services in both "A" and "B" categories;

Provision of three tiers for making payments when appropriations are not sufficient to provide full entitlement;

Authorization of payments of low-rent housing children in the first and third tiers but not in the second. Such payments must be used for Title I or Title I-type programs and projects designed to meet the special educational needs of educationally deprived children;

Modification and extension of assistance for decreases in Federal activiites;

Addition of four hold-harmless provisions (two of which became effective in fiscal year 1975 and two in fiscal year 1976);

Waiver of prohibition of considering P.L. 874 payments when state aid programs provide equalization, which also was made effective for fiscal year 1975.

As you know, the purpose of Section 3 of P.L. 874 is to compensate school districts for educating children who are in an area as a result of Federal activities. Primarily the program compensates for the loss in tax base of Federal property, property taxes being the major source of local funds to support free public education.

Prior to the amendments, the law contained only two categories of federally-connected children. Both remain in the program as basic classifications of children. The A category child lives on Federal property with a parent either employed on Federal property or in one of the Uniformed services. The B category child either lives on Federal property or lives with a parent employed on Federal property or in one of the Uniformed services.

For eligibility purposes, the B category child counts as a whole child but for payment purposes he represents considerably less than a whole child. The A child counts as approximately a whole child for both purposes.

For payment purposes, the B child formerly represented half the value of an A child. The computation of the number of A children in average daily attendance ADA and one-half the number of B children in ADA multiplied by the local contribution rate determined entitlement.

Our present determination of entitlement differs considerably. There are now seven subcategories of A children and nine subcategories of B children. These subcategories reflect either a different portion of the local contribution rate or a different portion of entitlement to be paid under the three-tier-payment system or amounts that must be tracked. It is necessary to use an automated system to determine military, Indian and low-rent housing children. In addition, the automated system determines the "in" or "out of county" status of pupils by comparing the county or counties of a school district with the county or counties of a Federal property. Approximately 9,000 Federal properties are claimed by 4300 school districts. Many of the Federal properties are claimed by more than one school district and thus are "in county" in some and "out of county" and "out of state" for others. Some school districts claim as many as several hundred Federal properties.

In order to compute an entitlement, the local contribution rate must be multiplied first by the percent applicable to a particular subcategory and then by the number of children in ADA in that subcategory. For a school district with every one of the subcategories, this means 32 computations plus the addition of subcategory entitlements in order to determine total entitlement. This compares to the former one computation.

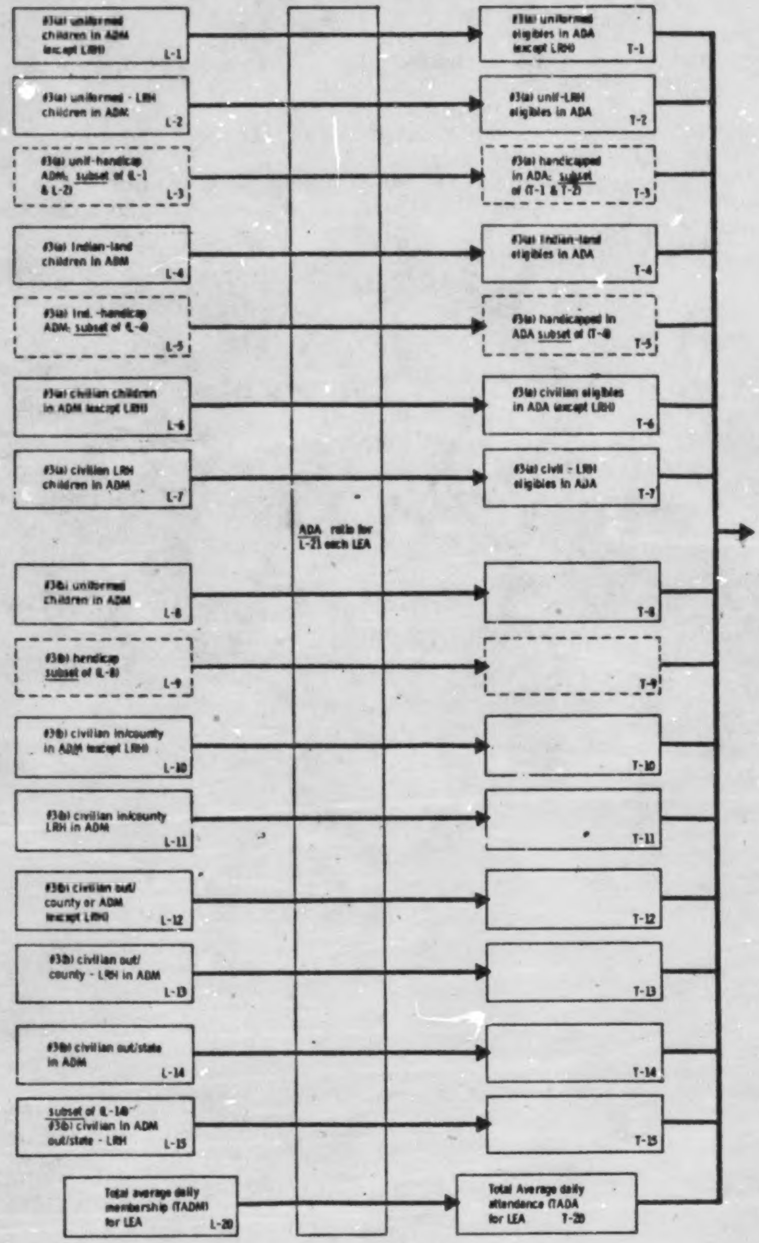
Prior to the enactment of P.L. 93-380, entitlements were prorated equally (after the full funding of Federal schools) in the event that an appropriation did not provide enough funds to pay all entitlements in full. Currently there are three payment tiers. The first provides 100 percent of Section 2 entitlement and 25 percent payment of all other subcategory entitlements. The second provides varying additional percentages for payment and must be paid in full or not at all. (However, low-rent housing entitlements may not be paid in the second tier.) The third tier provides an equal portion of the balance of entitlement in each subcategory. (A few of the entitlements are paid in full through the second tier.) In order to compute payments in the second as well as the third payment tier, entitlements in each subcategory must be multiplied by the percentages applicable to each subcategory. This can result in 32 or more computations in order to determine payment in addition to the 32 plus computations that were necessary to determine entitlements.

These computations are further complicated by certain payment limitations for those districts that no longer meet the three percent eligibility requirement but are permitted to retain eligibility for two years. These borderline districts have become more numerous in recent years.

The computations become even more numerous for determining payments under Section 3(e) and the other four hold-harmless provisions. Needless to say, it is extremely difficult to help a school district determine its payment, unless the application has been processed through both automated data systems, the one for determining subcategories of children and the other for computing entitlements and payments.

Step by step procedures for determining eligibility for entitlements and payments were charted by the Library of Congress in the spring of 1975. Because they serve to illustrate the complexities of the present program, we have taken the liberty of making copies for each of you to illustrate the determination of eligibility, entitlement and payment.

[Material referred to follows:]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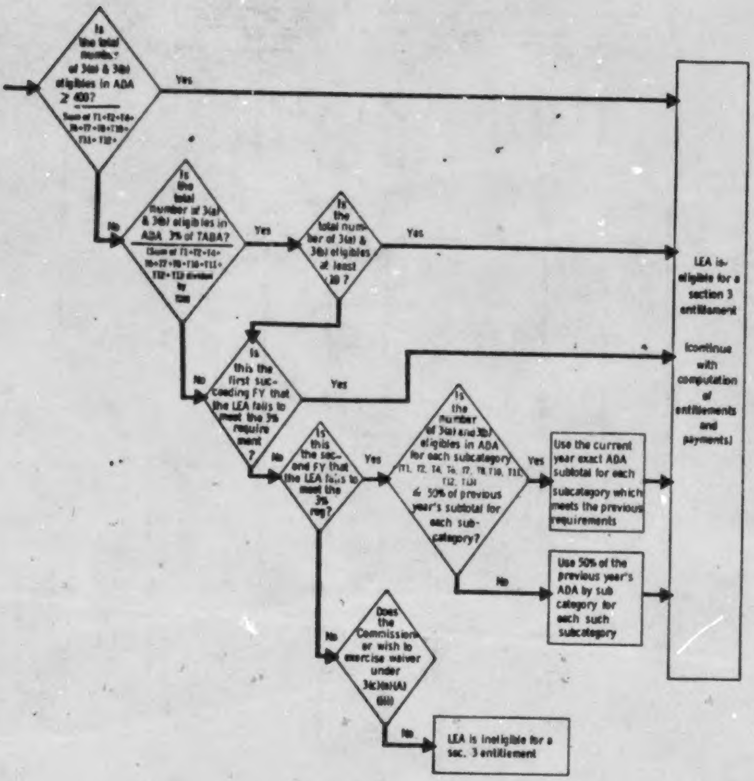
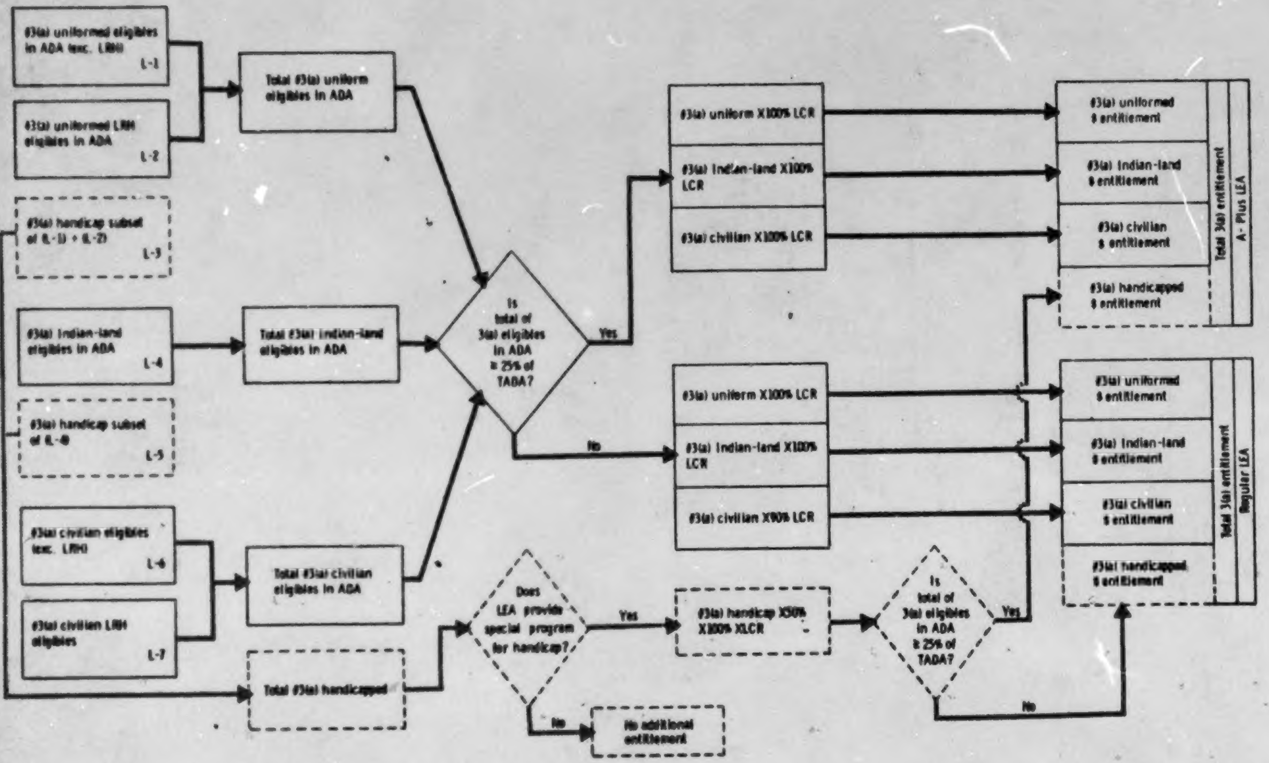
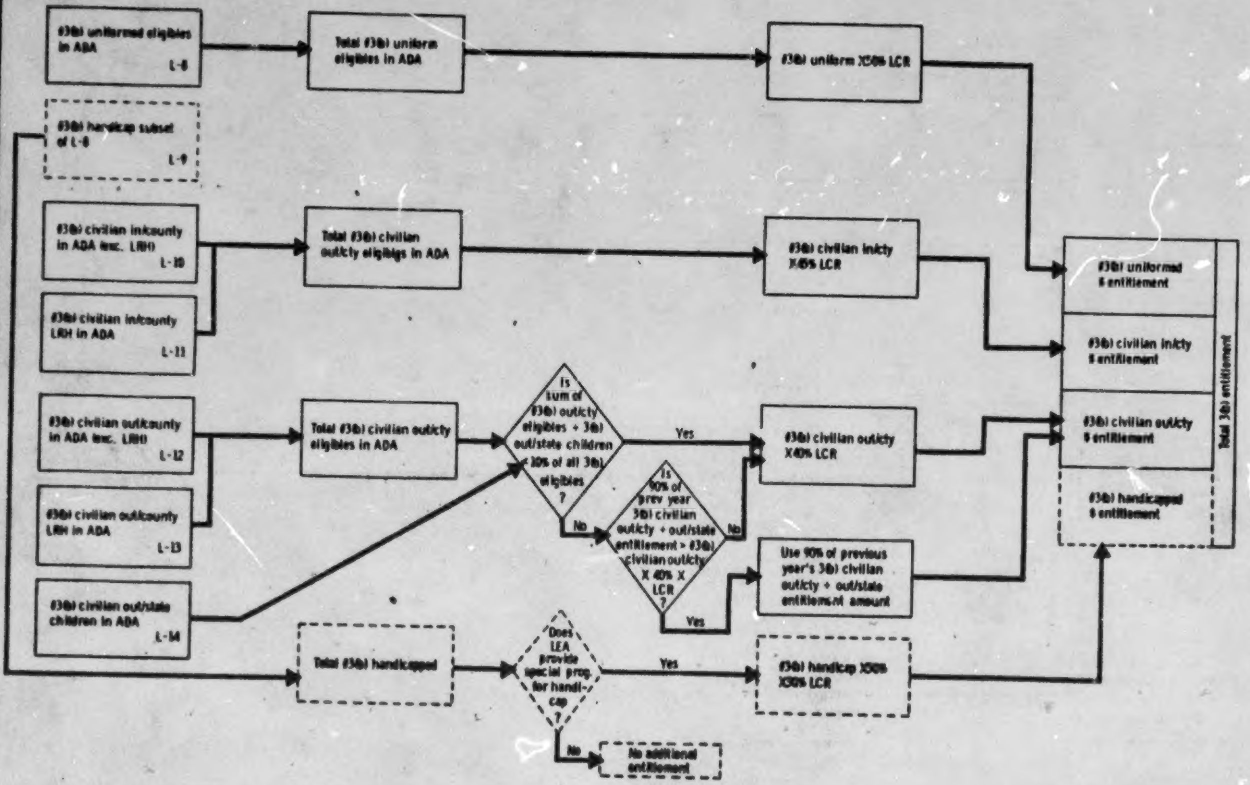
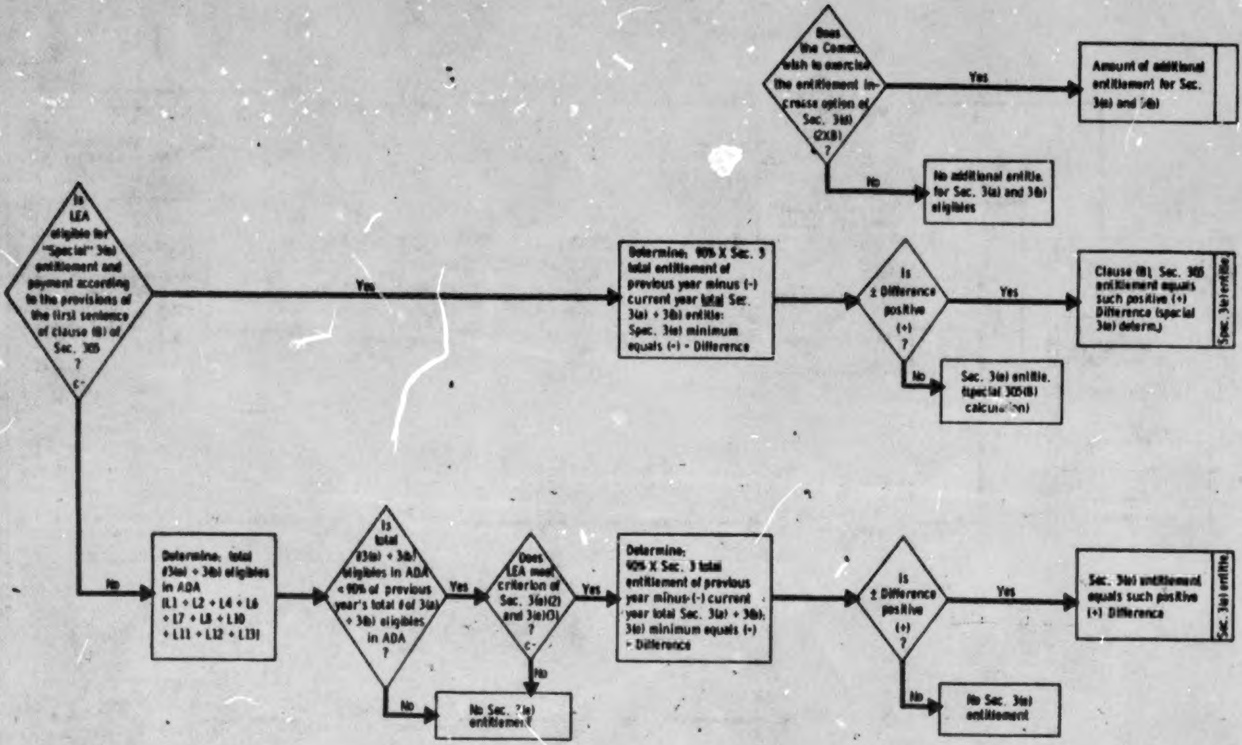
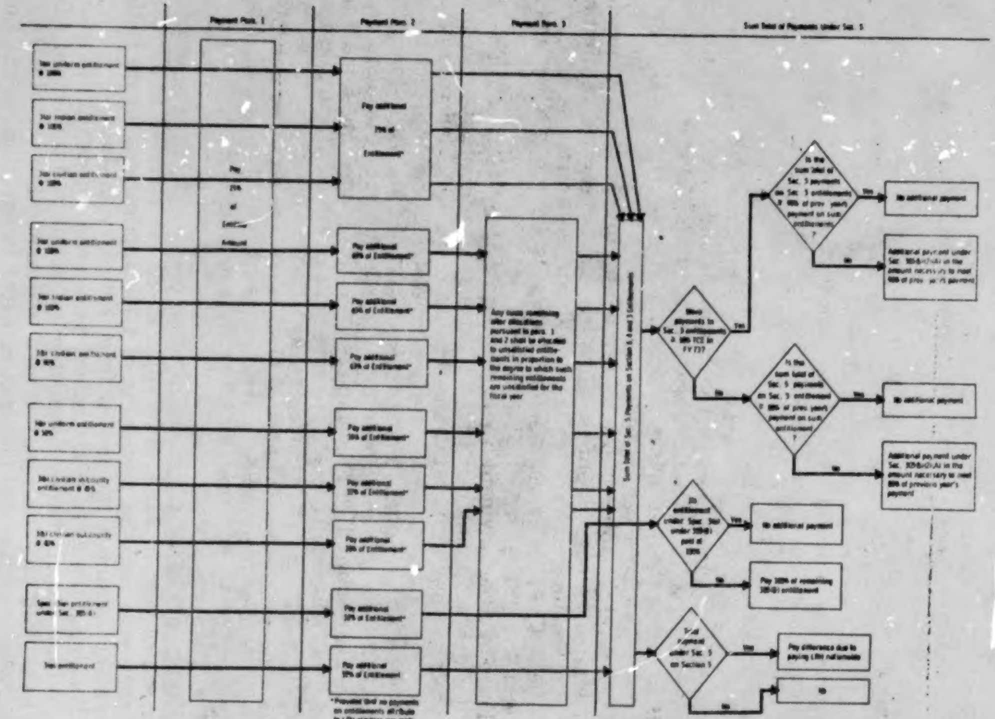
#3(a) handicapped in ADA; subset of (T-1 & T-2) T-3
#3(a) Indian-land eligibles in ADA T-4
#3(a) handicapped in ADA subset of (T-4) T-5
#3(a) civilian eligibles in ADA (except LRH) T-6
#3(a) civil - LRH eligibles in ADA T-7
T-8
T-9
T-10
T-11
T-12
T-13
T-14
T-15
Total Average daily attendance (TADA for LEA T-20


Is the total number of 3(a) & 3(b) eligibles in ADA ≥ 400?
(Sum of T1+T2+T4+T6+T7+T8+T10+T11+T12+
Yes
No
Is the total number of 3(a) & 3(b) eligibles in ADA 3% of TABA?
(Sum of T1+T2+T4+T6+T7+T8+T10+T11+T12+T13 divided by T20
Yes
Is the total number of 3(a) & 3(b) eligibles at least 20 ?
Yes
No
Is this the first succeeding FY that the LEA fails to meet the 3% requirement ?
Yes
No
Is this the second FY that the LEA fails to meet the 3% req?
Yes
Is the number of 3(a) and 3(b) eligibles in ADA for each subcategory (T1, T2, T4, T6, T7, T8, T10, T11, T12, T13) ≥ 50% of previous year's subtotal for each subcategory?
Yes
Use the current year exact ADA subtotal for each subcategory which meets the previous requirements
No
Use 50% of the previous year's ADA by sub category for each such subcategory
No
Does the Commissioner wish to exercise waiver under 3(c)(4)(A)(iii)
No
LEA is ineligible for a sec. 3 entitlement
LEA is eligible for a section 3 entitlement
(continue with computation of entitlements and payments)


#3(a) uniformed eligibles in ADA (exc. LRH) L-1
#3(a) uniformed LRH eligibles in ADA L-2
#3(a) handicap subset of (L-1) + (L-2) L-3
#3(a) Indian-land eligibles in ADA L-4
#3(a) handicap subset of (L-4) L-5
#3(a) civilian eligibles (exc. LRH) L-6
#3(a) civilian LRH eligibles L-7
Total #3(a) uniform eligibles in ADA
Total #3(a) Indian-land eligibles in ADA
Total #3(a) civilian eligibles in ADA
Total #3(a) handicapped
Is total of 3(a) eligibles in ADA ≥ 25% of TADA?
Yes
No
#3(a) uniform X100% LCR
#3(a) Indian-land X100% LCR
#3(a) civilian X100% LCR
#3(a) uniform X100% LCR
#3(a) Indian-land X100% LCR
#3(a) civilian X90% LCR
Does LEA provide special program for handicap?
Yes
No
No additional entitlement
#3(a) handicap X50% X100% XLCR
Is total of 3(a) eligibles in ADA ≥ 25% of TADA?
Yes
No
#3(a) uniformed $ entitlement
#3(a) Indian-land $ entitlement
#3(a) civilian $ entitlement
#3(a) handicapped $ entitlement
Total 3(a) entitlement
A- Plus LEA
#3(a) uniformed $ entitlement
#3(a) Indian-land $ entitlement
#3(a) civilian $ entitlement
#3(a) handicapped $ entitlement
Total 3(a) entitlement
Regular LEA


#3(b) uniformed eligibles in ADA L-8
#3(b) handicap subset of L-8 L-9
#3(b) civilian in/county in ADA (exc. LRH) L-10
#3(b) civilian in/county LRH in ADA L-11
#3(b) civilian out/county in ADA (exc. LRH) L-12
#3(b) civilian out/county LRH in ADA L-13
#3(b) civilian out/state children in ADA L-14
Total #3(b) uniform eligibles in ADA
Total #3(b) civilian out/cty eligibigs in ADA
Total #3(b) civilian out/cty eligibles in ADA
Total #3(b) handicapped
Is sum of #3(b) out/cty eligibles + 3(b) out/state children < 30% of all 3(b) eligibles ?
Yes
No
Is 90% of prev year 3(b) civilian out/cty + out/state entitlement > #3(b) civilian out/cty X 40% X LCR ?
No
Yes
Does LEA provide special prog. for handi-cap ?
Yes
No
No additional entitlement
#3(b) uniform X50% LCR
#3(b) civilian in/cty X45% LCR
#3(b) civilian out/cty X40% LCR
Use 90% of previous year's 3(b) civilian out/cty + out/state entitlement amount
#3(b) handicap X50% X50% LCR
#3(b) uniformed $ entitlement
#3(b) civilian in/cty $ entitlement
#3(b) civilian out/cty $ entitlement
#3(b) handicapped $ entitlement
Total 3(b) entitlement


Is LEA eligible for "Special" 3(e) entitlement and payment according to the provisions of the first sentence of clause (B) of Sec. 305 ?
Yes
No
Determine: 90% X Sec. 3 total entitlement of previous year minus (-) current year total Sec. 3(a) + 3(b) entitle: Spec. 3(e) minimum equals (+) Difference
Is ± Difference positive (+) ?
Yes
Clause (B), Sec. 305 entitlement equals such positive (+) Difference (special 3(e) determ.)
Spec. 3(e) entitle.
No
Sec. 3(e) entitle. (special 305(B) calculation)
Does the Commr. wish to exercise the entitlement increase option of Sec. 3(d) (2)(B) ?
Yes
Amount of additional entitlement for Sec. 3(a) and 3(b)
No
No additional entitle. for Sec. 3(a) and 3(b) eligibles
Determine: total #3(a) + 3(b) eligibles in ADA (L1 + L2 + L4 + L6 + L7 + L8 + L10 + L11 + L12 + L13)
Is total #3(a) + 3(b) eligibles in ADA < 90% of previous year's total # of 3(a) + 3(b) eligibles in ADA ?
Yes
No
No Sec. 3(e) entitlement
Does LEA meet criterion of Sec. 3(e)(2) and 3(e)(3) ?
Yes
No
Determine: 90% X Sec. 3 total entitlement of previous year minus (-) current year total Sec. 3(a) + 3(b); 3(e) minimum equals (+) Difference
Is ± Difference positive (+) ?
Yes
Sec. 3(e) entitlement equals such positive (+) Difference
Sec. 3(e) entitle.
No
No Sec. 3(e) entitlement


Payment Para. 1
Payment Para. 2
Payment Para. 3
Sum Total of Payments Under Sec. 5
Pay 20% of Entitlement Amount
Pay additional 20% of Entitlement*
Any sums remaining after allocations pursuant to para. 1 and 2 shall be allocated to unsatisfied entitlements in proportion to the degree to which such remaining entitlements are unsatisfied for the fiscal year
Sum Total of Sec. 5 Payments on Section 6, 4 and 3 Entitlements
Is the sum total of Sec. 5 payments on Sec. 3 entitlements ≥ 90% of prev. year's payment on such entitlements ?
Yes
No
No additional payment
Is 3b entitlement under Spec. Sec under 305(B) paid at 100%
Pay 100% of remaining 305(B) entitlement
Pay difference due to paying LEA nationwide

* Provided that no payments on entitlements attribute to LEA eligibles are made under this paragraph

Mr. **Stormer**. I would like to take a moment to show you the variety of charts put together from the pieces of material that you have. Starting from the right-hand side, this is the manner by which we determine eligibility of a school district, these two pages, and they are pages one and two in your document.

This is the process of determining the entitlement under the A and B categories and under special sections within the law. The last portion is the determination of payment by the three payment tiers and while it was not possible to present you this in a size which was readable, each of the independent parts are in your packet in sequential order.

The computer form which details the computation of entitlement, prorated entitlement, and current payment and which is sent to an applicant school district along with payment, to Congress for notification, and to the states, is no longer the simple, easy to understand form that its predecessor was.

Considerably more time and manpower are now consumed in explaining the basis of entitlements, payments provided in the tier system, amounts provided by the hold-harmless provisions, amounts available for Title I programs, and reasons for ineligibility under any of the provisions.

Formerly the payment voucher was an 8½ by 11 sheet. This is shown in your packet as Exhibit 7, the machine-usable voucher that is processed and provided to the applicant, the state and yourselves when a payment is made to a school district. (See Appendix 3.)

Formerly the application form consisted of four pages for those applying for a minimum rate or a state group rate. An additional sheet was required to be completed for those applying for a rate based on individually selected comparable districts. The application form has grown to 11 pages with 17 pages of instructions. An additional two sheets—Standard Form 424—was required by OMB.

Applications from school districts contain actual counts of federally-connected and total children in membership and estimated ADA. They are processed for an initial payment of from 70 percent to 90 percent of estimated prorated entitlement before the close of the school year in June. Most applications are received in January of each year and the processing of 4,300 applications for an initial payment consumes the period from February to June.

Following the close of the school year, school districts file a one-page final report, due by September 30, to indicate the actual ADA of total children. This figure is used to compute the actual ADA for the federally-connected children reported in the application. Entitlements are recomputed and the full balance of payments due is made during the fall and winter months.

As we have indicated, the minimum number of payments to a school district during a year is two; an initial and a final. Added to this minimum number is a payment for low-rent housing children which will be discussed later. Also added to this minimum number is a payment under one or more of the hold-harmless provisions. An initial payment under these provisions was made separately for fiscal year 1976 and at present is being made separately again for fiscal year 1977. We had hoped to begin making these payments several months ago and combine them with regular initial payments but were not able to do so.

Indeed, we have been late in making many regular initial payments due to the many difficulties encountered as a result of our dependence on automated systems.

Turning to the low-rent housing children, the process for arriving at payment is even more complex for the applicant. The payments for low-rent housing are not included in an initial payment for the other children to a school district. Before any payment for low-rent housing can be made, an applicant must submit a plan for the use of the funds to its State Title I representative. The payment voucher accompanying a school district's check for other federally-connected children indicates the estimated amount that can be received for low-rent housing children.

The school district needs to know this amount in order to plan for its use within a Title I or Title I-type program. After approval, the State Title I representative forwards to our office a document indicating that they have approved the applicant's planned use of the funds. Upon receipt of this document, we can then make an initial payment against the applicant's estimated prorated entitlement for low-rent housing.

Invariably estimated prorated entitlements change when final reports are filed and processed.

For example, in fiscal '76, in processing the final payment, we went into the third tier by six percent and therefore the amounts for low rent housing pupils generally increased over what the school district had previously anticipated it would receive. These changes result in either increasing or decreasing an applicant's entitlement for low-rent housing pupils.

If there is an increase, the school district must acquire state approval for the use of the increased amount. If there is a decrease, the district must either cut its program or acquire funds from other sources.

In addition, an on-site review by a regional program officer may disclose some ineligible children causing an adjusted final processing to further decrease entitlements. More often than not, this will occur after funds have been obligated, leaving no choice but to make up the cut funds from other sources, possibly affecting current regular programs.

I am sure you can see that these procedures cause additional complexities in payment processing and create numerous problems for the applicants in trying to plan meaningful programs without knowing the level of funding which will be finally determined.

The procedures for processing low-rent housing entitlements are illustrated at Exhibit 7 in the accompanying folder of material. (See Appendix 3.)

P.L. 874 payments for other than low-rent housing continue to be deposited in current operating accounts and used in accordance with state and local laws to pay the expenses of all children in a school district. However, payments for low-rent housing and for handicapped children must be accounted for, and thus maintained separately. School districts are dependent on the previously-discussed computer form to keep track of these funds.

Let us now focus on the four hold-harmless provisions added by the 1974 amendments. They are:

1. Guarantee minimum payment of 80 percent or in cases where 10 percent or more payment in 1973 is involved, 90 percent of previous year's payment to all applicants;

2. Guarantee minimum payment of 90 percent of previous year's entitlement to school districts losing 10 percent or more federally-connected children during fiscal year 1974 and fiscal year 1975 due to decrease or cessation of Federal activities affecting military installations announced after April 16, 1973;

3. Guarantee minimum payment of 90 percent of previous year's payment for B children if the number of out of county and out of state B children is at least 10 percent of total B children; and

4. Guarantee the difference between payment received from an appropriation shared with low-rent housing pupils and the payment that would have been received if the appropriation were not so shared.

The first provision is not costly in terms of total program dollars. It served its intent in 1976 by easing reductions in payments due to the reforms. However, in 1977 when approximately the same level of funding was provided for the program as in 1976, the situations it serves are unrelated to the reforms. These situations primarily relate to reductions in children. Such reductions are already cared for in Section 3(c)(A)(ii) and Section 3(e).

The second provision dealing with base closings was effective in fiscal year 1975. Thus it will have been in effect for four years by the end of 1978. We believe that this is sufficient time for school districts to recover from the effects of such closings.

For most districts eligible under the third hold-harmless clause, there is little likelihood of any payments resulting from this provision in 1979 if such authorization were extended in 1979. By that time, they will have gained enough in larger payments for still-eligible B children to meet the guarantee.

The fourth provision is the most costly and these costs will grow as payments for low-rent housing children grow. We do not believe that the funds provided for low-rent housing children, at least in the appropriations for 1976 and 1977, were provided at any appreciable sacrifice in payments for other children. Therefore, there is no need for this provision.

The "hold-harmless" clauses have been most difficult to administer. The computer programs developed to determine payments under these clauses are probably the most complicated of Office of Eduation computer programs. They require searching through applicants' earlier files for data on which to base guarantees which then must be compared to current year Section 3 payments for determination of a hold-harmless payment. Whenever there is a change in data for an earlier year, then all subsequent year hold-harmless payments will change accordingly. This frequently results in overpayments.

In the area of extra assistance for handicapped children, we have had fewer administrative difficulties. As you know, handicapped children residing on Indian lands or having a parent in one of the uniformed services are entitled to receive 150 percent of the local contribution rate if a special program for their educational needs is being provided.

The application, which is signed by the school district and the State Education Agency, contains assurances that a special program is being provided and that such programs conform to state requirements and plans under the Education of the Handicapped Act.

During on-site reviews, we expect to have regional program officers insure that amounts representing increased rates have been expended on special programs for children claimed in this category. Payments for the handicapped children are made right along with payments for other federally-connected children. There is some conflict, however, between the definition of "free public education" in P.L. 81-874 and the requirement to furnish private schooling, if necessary, under the handicapped program. This is especially true with regard to Federal schools under Section 6. This section contains specific prohibitions against furnishing education to children in facilities other than those located on a Federal installation or owned by a local education agency. Although we may be able to resolve the conflict, we believe that amending language to update our law in this respect is preferable, and would make it compatible with other more recent laws concerning the handicapped.

In conclusion, we are all aware of the concerns that many have had over the years regarding inequities in the impact aid program.

Some concerns have as their basis:

Payments that do not reflect the economic benefits that Federal activities may bring to a community;

Payments for children who would likely be attending the same schools even if the Federal government had not moved into the area;

Payments to school districts that also receive funds through in-lieu-of-tax payments;

Payments to some districts that are among the wealthiest in the country;

Payments that are unrelated to a tax-base loss caused by the Federal government.

Primarily these payments relate to B category children for whom the 1978 budget did not request any funds. Although the amendments provided some reforms by reducing entitlement and payment rates for B category children, many additional reforms are necessary.

In connection with the above-mentioned concerns, the Department is intensely analyzing the Impact Aid Program and will provide you with the results of its study along with a set of recommendations for changing the law to make it more compatible with current conditions and present educational needs of children in Federally impacted areas.

We place emphasis on procedural problems in this testimony but recognize that there are important substantive problems. These will be addressed at a later point after the Administration has had the opportunity to complete its study and fully review the operations of the Impact Aid Program.

Chairman **Perkins**. Thank you very much for a very fine statement.

I will now call on Mr. James D. Martin, Deputy Director of Human Resources Division, U.S. General Accounting Office.

STATEMENT OF JAMES D. MARTIN, DEPUTY DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE ACCOMPANIED BY DALE HARRISON, OPERATIONS RESEARCH ANALYST, FINANCIAL AND GENERAL MANAGEMENT STUDIES DIVISION, GAO.

Mr. MARTIN. Mr. Chairman and members of the subcommittee.

Chairman PERKINS. Identify yourself for the record.

Mr. MARTIN. I am James D. Martin, Deputy Director, Human Resources Division, General Accounting Office.

Chairman PERKINS. Go right ahead.

Mr. MARTIN. Mr. Chairman and members of the subcommittee, we are pleased to have this opportunity to comment on the results of our work on the impact aid program. The results of our evaluation of this program are contained in our report to the Chairman, House Committee on Education and Labor entitled "Assessment of the Impact Aid Program" HRD-76-116, dated October 15, 1976. (See Appendix 5.)

At the request of 14 members of the House Committee on Education and Labor and two other congressmen, we reviewed certain aspects of the impact aid program, authorized by Public Law 81-874, approved September 30, 1950, as amended and administered by the Office of Education. We reviewed (1) the validity of claims for Federal funds, (2) the economic impact of Federally connected children on local educational agencies, (LEAs), (3) impact aid payment rates compared to local education costs, (4) the impact on applicant LEAs of reducing impact aid payments to eliminate claims for parents working on Federal properties located outside the LEA, and (5) the impact on local agencies receiving impact aid of one state's program for equalizing expenditures for public education. In addition, we reviewed the adequacy of OE's regulations and instructions for determining eligibility and payment rates.

We limited our review to LEAs receiving assistance under title I, sections 2, 3(a), and 3(b) of Public Law 81-874, for fiscal year 1973. The Education Amendments of 1974, dated August 21, 1974, changed these sections effective in fiscal year 1976. Although our report deals with LEAs which received assistance in fiscal year 1973, our recommendations on OE procedures for determining eligibility and its instructions and procedures for determining payment rates are still pertinent. The remainder of the report provides information about the program based on various analyses performed.

Provisions of Section 3 of Public Law 81-874:

One purpose of Public Law 81-874 is to minimize the fiscal inequities caused by both the presence of tax-exempt Federal lands and the burden of providing suitable free public education to federally connected children. Under title I, section 3 of Public Law 81-874, as amended (20 U.S.C. 238), LEAs are to be compensated for the cost of educating children who, while attending such schools (1) resided on tax-exempt Federal property with a parent employed on Federal property or had a parent who was on active duty in the Uniformed services—section 3(a)—or (2) were not included in section 3(a) and either resided on Federal property or resided with a parent employed on Federal property—section 3(b).

The legislation does not specify the uses that can be made of such funds. Most LFAs deposit the Federal funds in their general operating expense accounts with all other available funds. The combined funds are used to finance the LEAS' total school programs. The program is not designed to produce specific educational outcomes of school children. The legislation also provides that impact aid funds cannot be used to supplant state funds.

Administration and funding of impact aid:

In administering the program OE develops policies and procedures and distributes bulletins, instructions, and application forms to LEAs through state educational agencies. LEAs send applications through their state agencies to OE for review and approval. Payments, however, are made directly to LEAs.

Payments under sections 3(a) and 3(b) increased from $25 million in fiscal year 1951 to about $550 million in fiscal year 1975. This growth is attributable to several factors, including increases in school population, increases in school expenditure per pupil, expanded Federal activity, and amendments liberalizing the basic legislation. From 1951 to 1975 the number of children counted under section 3(a) incrased from just over 50,000 to about 342,000. For the same period section 3(b) children increased from about 386,000 to 1.6 million.

The fiscal year 1975 appropriation legislation directed OE to pay claims for federally connected children under section 3(a) at 90 percent of entitlements or, if such children comprised 25 percent or more of the LEAs total enrollment, at 100 percent. Section 3(b) claims were to be paid at 68 percent of entitlements.

For fiscal year 1975 the $550 million available for section 3(a) and 3(b) totalled about 86 percent of the $637 million made available for all Public Law 81-874 activities.

Basis for selecting LEAs:

From the 4,581 LEAs receiving impact aid funds, we selected for review a sample of 100 in 17 states which received $61.7 million under sections 3(a) and 3(b) in fiscal year 1973. The sample was chosen primarily to test the accuracy of LEAs' claims for payment and to determine how OE applied eligibility criteria to individual LEAs. Selection was based on several criteria including (1), number of eligible children in the LEAs and percent of payments received, (2), the percent of eligible children in the LEA of total number of children in enrollment, and (3), a reasonable geographic distribution.

Because the LEAs in our sample were selected judgmentally, we did not project our findings to all LEAs in the program. The findings apply only to the LEAs studied and the results cannot be used to draw overall conclusions about the impact aid program. The sample LEAs included about 298,000 children claimed as eligible, or 13.5 percent of the total children claimed in the program. The sample LEAs also received funds of nearly $62 million, or 12.1 percent, of the total section 3(a) and 3(b) payments for fiscal year 1973. The LEAs we reviewed are listed in appendix I in the report.

Scope of Review:

At OE headquarters in Washington, D. C., and at HEW regional offices in Atlanta, Boston, Dallas, Denver, Kansas City and San Francisco, we interviewed officials and reviewed applicable legislation, regulations, policies, and procedures for administering the program. We also examined assistance applications and other records of the 100 LEAs for fiscal year 1973 and interviewed LEA officials. In addition, we reviewed allocation formulas of the states in which the 100 LEAs were located. We gathered data for making our analysis of economic impact of federally connected children on LEAs at OE Headquartrs. We will discuss the data used in more detail later in the testimony.

Validity of claims for impact aid funds:

Of the 100 local educational agencies we reviewed, 93 claimed either more or less than their eligible number of pupils. In total these LEAs overclaimed a net of $578,224—slightly less than one percent of their total assistance claimed. However, OE program personnel, on the basis of their programmed review of the LEAs' claims at the time of our field work identified a net of $366,091 in overclaims and adjusted the claims. Therefore, the LEAs were overpaid a net total of $212,133.

We brought our findings to the attention of OE officials in a May 30, 1975 letter. OE officials agreed to follow up on these claims and said that payments were not considered final until a detailed review of supporting records had been completed or three years had elapsed without such a review.

OE regulations and instructions for determining eligibility need to be clarified and better enforced:

We identified several areas where OE regulations and instructions for determining eligibility need to be clarified and better enforced to minimize the chance of LEAs overstating or understating claims for impact aid funds.

Defining eligibility:

OE has not, except for a few special employment situations, issued regulations or instructions defining the requirements which a parent must meet to be considered employed on Federal property. To document the eligibility of pupils claimed, LEAs use a parent-pupil survey which is a method approved for use by OE. It has accepted claims for pupils whose parents were working temporarily on Federal property on the day the parent-pupil survey was taken, regrdless of where the parents were actually employed. OE uses the terms "working on" and "employed on" synonymously. Thus some LEAs have been reimbursed for pupils whose parents live on and are employed by firms located on private property.

HEW concurred with our recommendation to clarify the requirements that a parent must meet to be considered employed on Federal property.

Identifying eligible children:

One frequent error made by LEAs was to claim children who did not reside in the household of the federally connected parent. Of the 100 LEAs, 21 did not have adequate documentation to determine if the child resided with the federally connected parent.

We recommended that documentation be required to determine that children claimed did reside with civilian federally connected parents. HEW said that the instructions in this area would be strengthened but that the stuation could be appreciably improved only through extensive field reviews.

Also, OE regulations and instructions do not adequately define the eligibility requirements for a child residing with a parent in the Uniformed services. Furthermore, OE procedures for approving claims based on a child's having a parent in the uniformed services do not appear to be consistent with the intent of the law.

We recommended that documentation be required from LEAs to determine whether a child is a dependent of a uniformed services parent. HEW said that the statute expresses no requirement of dependency for a child of a uniformed services parent,, and that it is thus not feasible to seek such information. We do not fully agree. The legislative history of Public Law 81-874 suggests that to be eligible the child should be a dependent of a Uniformed services parent.

Impact aid funds used to supplant state funds:

For fiscal year 1973—the most recent year with complete data available for review—impact aid funds, by law, could not be paid to any LEAs in states which considered such funds as local resources in determining eligibility for or computing the amount of state aid to be given to individual LEAs. This provision was intended to prevent states from using impact aid funds to supplant state funds. Two states appeared to have been using section 3 funds to supplant state funds violating Public Law 81-874.

We brought this to the attention of OE and recommended that reviews be made of state aid allocation formulas relative to the supplant provision of the law. HEW agreed and said that with the passage of the 1974 amendments to the impact aid law, in depth examinations of state aid programs will occur.

Impact aid payment rates:

An LEA's actual educational costs are not used for determining payment rates because federally connected children influence the revenues available and the amount which the LEA can spend on education. To avoid this problem, the law provides tht payment rates be based on the amounts private property owners is generally comparable LEAs pay toward the cost of educating children. The law also establishes a minimum payment rate which is equal to the higher of either one-half the national or one-half the state average expenditure per pupil. However, in no case may the minimum rate exceed the state average expenditure per pupil. The amount of aid provided to an LEA may not be based on a rate lower than the applicable minimum rate.

OE, after consulting with the state educational agencies and LEAs, determines which LEAs are in its judgment generally comparable to the applicant.

HEW regulations provide that payment rates be established subject to the minimum rates by either grouping all LEAs within a state into generally comparable groups and basing each applicant's payment on its group's average expenditure per pupil from local revenues, or individually selecting comparable LEAs for each applicant and basing each applicant's payment rate on the comparable LEA's average expenditure per pupil from local revenues.

The comparability criteria are the same in both procedures; both require OE to compute payment rates using data compiled by the state educational agency or LEAs on expenditures paid from local revenues of comparable LEAs. This payment rate equals the average expenditure per pupil in average daily attendance paid from local revenues—hereafter referred to as the local contribution rate—of the LEAs which are comparable to the applicant.

OE should review the data used to compute payments rates:

Although local contribution rate data submitted to OE is the basis for selecting comparable LEAs to determine impact aid payment rates, OE does not periodically review the revenue which local and state educational agencies report to determine if it is received from state or local sources. What constitutes local revenue is subject to interpretation because LEAs receive revenue from many sources under a wide array of Federal, state and local activities. Such interpretations can affect the amount of impact aid funds received.

HEW concurred with our recommendation to review revenue which LEAs and SEAs report to determine if it is received from state or local sources, but indicated that manpower in its regional offices is insufficient to conduct these reviews.

OE Instructions not adequate for determining comparable LEAs.

OE instructions contain criteria for selecting comparable LEAs which provide for legal classification, grade levels, size as measured by cost per pupil in average daily attendance, geographical size, population density, industrialization, current revenues, aggregate property values, percent of pupils transported, and other relevant factors.

OE instructions for selecting comparable LEAs to determine impact aid payment rates provide no assurance that the LEAs selected are, in fact, comparable. While the cost per pupil is a critical criterion for determining comparability, neither the regulations nor the instructions specify what weight should be given to other criteria. Moreover, OE has not established ranges for each criterion to assist state or local educational agencies in determining comparability. Both of these factors are needed, regardless of the comparable LEA procedure used to make selection of comparable LEAs consistent.

As for specifying the weight that should be given to its published criteria and establishing ranges for each criterion, HEW indicated that it recognized the need for study of this problem, and if the use of a weighting system is deemed advisable it will change existing regulations.

OE procedures for approving rates from individually selected comparable LEAs are not consistent with its instructions for selecting comparable LEAs. It generally does not review the comparable LEAs to determine whether they were selected in a manner consistent with its criteria but compares the resulting payment rates to the applicants' local contribution rates for nonfederally connected pupils. Because the local contribution rate for nonfederally connected pupils is not a criterion stipulated in OE instructions or regulations, few of the LEAs used it in selecting comparable LEAs.

We recommended that procedures be developed by OE for approving Federal payment rates based on comparable LEAs which are consistent with OE's instructions for selecting such LEAs. HEW said that present procedures provide for a review of the criteria for selecting comparable LEAs.

We do not believe that HEW's comments are responsive to our recommendation.

Analysis of economic impact of federally connected children on LEAs.

To respond to the congressional request for an analysis of the economic impact of federally connected children on LEAs, we calculated the tax increase that would be needed if LEAs did not receive payments under the impact aid program. This could be considered an indirect measure of the burden that federally connected children impose on LEAs.

These analyses were based on information in claims totaling $188 million, made by the 1671 LEAs in 16 states for aid under title I, sections 2 and 3(a) and 3(b) of Public Law 81-874 for fiscal year 1973. Section 2 allows for payments to LEAs that have had large amounts of property removed from the tax rolls through acquisition by the Federal government.

Our analyses do not consider the effects on the program of the provisions of the Education Amendments ot 1974, effective in fiscal year 1976, which provide payments for students living in low-rent public housing and handicapped students.

LEAs using the individually selected comparable LEA procedure for payment purposes must report on nine criteria such as property valuations and tax rates for all LEAs in that state. The state also sends this information to OE headquarters for verification of the LEA's selection. For both sections of the law, this information is to include LEA property valuations and tax rates. Because the LEAs we analyzed were not selected on a scientific basis, the results of our review are presented as a case study of 16 states and is not necessarily representative of the entire nation.

For each LEA we determined how much taxes would have to be increased to replace all or a part of their 1973 entitlements. We compared the percentage of impaction—that is, the percent of federally connected average daily attendance—for the 1671 LEAs to the percentage of change in taxes that would be necessary because of loss of aid.

Our analyses were based on school year 1971-72 valuations for taxable property since this was the latest information available. Historical trends in property values indicate that these values were probably much lower than current valuations. We used 100 percent of the impact aid entitlements in our analyses, which exceeded actual impact aid payments over the past few years by 25 to 30 percent, because appropriations have not been adequate to pay full entitlements. The use of these two factors tends to make our results a conservative estimate of the effect that loss of aid would have because they yield higher estimates of tax changes than would actually be necessary.

We analyzed the impact aid program to determine the effects of changes in eligibility and payment provisions. We considered all

4,581 LEAs in the program for fiscal year 1973. In addition, we analyzed data from the 16 states to determine the relationship between increasing percentages of federally connected children and taxable property values and how such a relationship might be reflected in such school financing indicators as tax rates applied to property values to raise revenue for schools, per pupil expenditures, and ratios of pupils to teachers. Correlation analysis was used to test for relationships between percentages of federally connected students and the other factors listed. Details are given in Appendix II in the report.

Effect of withdrawal of impact aid funds:

Without impact aid entitlements, 48 percent of the 1,671 LEAs analyzed would need annual property tax increases of less than five percent and 18 percent would need tax increases from five to ten percent.

Our tests of the effect of the withdrawal of only 3(b) entitlements showed that most LEAs could replace their lost entitlements with only a small increase in local property taxes. About 55 percent of the LEAs analyzed would require an increase of less than five percent in property taxes, and another 21 percent would require an increase of 5 to 10 percent. Eight percent of the LEAs would require a tax increase of 25 percent or more.

Our estimates of the effect of loss of aid are conservative because we used 100 percent of the entitlements and school year 1971-72 property valuations in our analyses. Whenever funds appropriated for section 3 are not adequate to pay total entitlements, the funds are prorated Prorations were necessary in fiscal years 1951 and 1955 and in every year since fiscal year 1967. However, even under conservatvie assumptions concerning loss of aid, our analysis showed that most LEAs would not have to impose major tax increases to replace 3(b) aid.

Our estimates of the effect of loss of aid are conservative because we used 100 percent of the entitlements and school year 1971-72 property valuations in our analyses. Whenever funds appropriated for section 3 are not adequate to pay total entitlements, the funds are prorated. Prorations were necessary in fiscal years 1951 and 1955 and in every year since fiscal year 1967. However, even under conservative assumptions concerning loss of aid, our analysis showed that most LEAs would not have to impose major tax increases to replace 3(b) aid.

Because not all states place the same reliance on local property taxes to finance education, large percentage changes in taxes are not always large dollar changes and vice versa. Therefore, we calculated the dollar change in taxes on a home with a market value of $40,000 to determine whether stating the effects in this manner would show any major differences from the percentage change analyses.

An increase of less than $50 in annual local property taxes on a home with a market value of $40,000 would result for 73 percent of the LEAs without their total entitlements, and for 81 percent without their 3(b) entitlements only. Our analyses showed that a great majority of LEAs—and especially those with low percentages of federally connected children—could replace their entitlements with only small monetary, as well as percentage, changes in local taxes.

Effect of changes to program eligibility and payment provisions:

Previous HEW-financed studies on the effects of federally connected children on LEAs recommended changes in methods for determining eligibility for aid. In general, the proposed changes were intended to develop the concept of paying only for above-average Federal impaction in any LEA. These changes and several variations we developed assume different measures for what constitutes above-average impaction.

Depending on the alterntive provisions applied, the proposed changes could reduce total impact aid entitlements by $68 million to $351 million, using fiscal year 1973 as a basis.

The bases for the alternatives were eligibility characteristics of the impact aid program and various recommendations made by previous HEW-financed studies to more closely reflect sources of tax revenues. A list of the alternatives and the reduction in impact aid resulting from application of the alternatives is presented as an enclosure to our statement.

The alternative proposals would eliminate much of the aid now received by LEAs with small percentages of federally conected children. For example, under some of the alternatives LEAs with less than three percent federally connected students would no longer receive aid.

Our analyses show that entitlements to LEAs under the impact aid program are quite sensitive to change in eligibility and payment provisions. Because above average impaction can have many definitions, the number of LEAs qualifying as above average and the aid they are entitled to can vary considerably. In general, however, as eligibility and payment provisions become stricter, fewer and fewer LEAs are eligible for aid and a higher percentage of aid would be directed toward those LEAs having larger percentages of federally connected children.

Federally connected children and LEA prosperity:

We analyzed data from 16 states to determine the relationship between increasing percentages of federally connected children and taxable property values and how such relationship might be reflected in such school financing indicators as tax rates applied to property values to raise revenue for schools, per pupil expenditure, and ratios of pupils to teachers.

Taxes available for schools are the product of some measure of property valuation times a tax rate. Assessment rates determine what proportion of total property values will be taxed, and millage rates are the tax rates applied to the assessed valuations.

In our analysis tax rate is defined as the product of the millgae rate times the assessment rate and is the rate that would be applied to total property valuation to determine the amount of taxes to be paid. This procedure places all LEAs on the same basic taxing structure.

We further analyzed the data from seven of these states to determine what effect withdrawal of impact aid funds would have on the relationship with tax rates. In general we found the following conditions to prevail:

Increasing percentages of federally connected children tend to show a slight association with higher property values per pupil, but the association is very weak and is not consistent across all 16 states.

Increasing percentages of federally connected children generally are associated with lower tax rates to raise revenue for schools, higher per pupil expenditures, and lower ratios of pupils to teachers, but the associations are very weak and are not consistent across all 16 states.

Increasing percentages of federally connected children are associated with higher tax rates to raise revenue for schools when taxes are adjusted for loss of impact aid funds, but most of the relationships are moderately weak.

The conclusion for these relationships is that heavily impacted LEAs appear to be associated with favorable school financing indicators but that withdrawal of aid could change the tax relationships considerably if current levels of educational effort are to be maintained.

The fact that heavy impaction does not show a stronger relationship than it does with taxes adjusted for loss of aid, however, confirms our previous analysis that many LEAs would not require a great increase in taxes if impact aid was withdrawn. Although our results cannot be considered representative of the entire nation, they indicate that large percentages of federally connected children do not necessarily indicate serious economic burdens on LEAs.

Comparison of impacted and nonimpacted LEAs.

Comparison of impacted and nonimpacted LEAs within a state can show some of the effects of federally connected children on LEAs. The results from 14 of the 16 states in our case study on impacted and nonimpacted LEAs showed that they differed greatly on several important characeristics.

For example, the LEAs receiving impact aid funds were generally the largest and most prosperous LEAs within a state. On the other hand, to raise the same amount of local revenue per child as LEAs not receiving aid, impacted LEAs in most states analyzed, on the average, would have to have higher property taxes than nonimpacted LEAs if the aid were not available.

The fact that this was not true in all states showed that the presence of federally connected children does not necessarily create a heavy tax burden. Even in those states where impacted LEAs have high tax rates, many individual LEAs that are impacted have lower tax rates than nonimpacted LEAs.

In addition to reviewing the validity of claims for impact aid funds, the impact aid payment rates, and the impact of federally connected children on local educational agencies, we developed information on:

The effect of one state's plan for equalizing educational revenues made available to its LEAs.

The effect of a recent amendment to Public Law 81-874 on payments to LEAs for children whose parents work on federal property located outside the LEA's county or state.

How impact aid payment rates compared to local educational costs.

Our findings are discussed in detail in our report. (See Appendix 5.)

This concludes our statement, Mr. Chairman. We will be happy to answer any questions you may have.

[Additional information submitted follows:]

ENCLOSURE ENCLOSURE

Effect of Changes to the Impact Aid Program Eligibility and Payment Provisions

The bases for the following alternatives were eligibility characteristics of the impact aid program and various recommendations made by previous HEW-financed studies to more closely reflect sources of tax revenues.

The alternatives were:

1. Eliminate LEAs that are eligible solely on the basis of the number of students living in low-rent public housing but are not receiving aid for these students.

2. Reduce the payment rate for 3(b) students to 40 percent of the rate for 3(a) students.

3. Because LEAs generally are not eligible for impact aid funds unless the number of federally connected students exceeds 3 percent of ADA, make payments only for those children who exceed 3 percent of ADA (absorption).

4. In determining whether LEAs meet the 3-percent eligibility requirement, count 3(b) students at 50 percent and pay for them at 50 percent of the 3(a) rate.

5. In determining whether LEAs meet the 3-percent eligibility requirement, count 3(b) students at 40 percent and pay for them at 40 percent of the 3(a) rate.

6. Count 3(b) students at 50 percent in determining eligibility, pay for them at 50 percent of the 3(a) rate, and require the LEAs to absorb 3 percent of ADA before making any payments for federally connected children.

7. Count 3(b) students at 50 percent in determining eligibility, pay for them at 40 percent of the 3(a) rate, and require the LEAs to absorb 3 percent of ADA before making any payments for federally connected children.

Our analyses of the above alternatives for all 4,581 LEAs which received impact aid in fiscal year 1973 showed that total entitlements of $678.6 million for that year could have been reduced by $68 million to $351 million.

Reduction in Impact Aid Resulting From Application of Various Eligibility and Payment Alternatives

	Revised entitlement	Reduction
	-------(millions)	-------
1. Eliminate LEAs eligible because of low-rent public housing	$610.3	$ 68.3
2. Reduce 3(b) payment rate to 40 percent of 3(a) rate	584.3	94.3
3. Pay for only that number of federally connected children exceeding 3 percent of ADA	511.4	167.2
4. Count 3(b) students at 50 percent for eligibility purposes and pay for them at 50 percent of the 3(a) rate	467.9	210.7
5. Count 3(b) students at 40 percent for eligibility purposes and pay for them at 40 percent of the 3(a) rate	390.0	287.7
6. Count 3(b) students at 50 percent for eligibility purposes, pay at 50 percent of the 3(a) rate, and require 3-percent absorption of ADA before making payments for federally connected children	392.0	286.0
7. Count 3(b) students at 50 percent for eligibility purposes, pay for them at 40 percent of the 3(a) rate, and require 3 percent absorption of ADA before making payments for federally connected children	327.0	351.4

The alternative proposals would eliminate much of the aid now received by LEAs with small percentages of federally connected children. For example, under the last five alternatives, because of the 3-percent absorption requirement, LEAs with less than 3-percent federally connected students would no longer receive aid. Under the last two alternatives, LEAS with up to 6-percent federally connected students would no longer receive aid because, after applying the 3-percent absorption requirement and counting the 3(b) students at 50 percent, the resultant count for eligible students would be less than 3 percent. As a result, larger percentages of the remaining aid would be directed toward those LEAs with 25 percent or more federally connected children.

Chairman PERKINS. Mr. Stormer, as you know, the Education Amendments of 1974 substantially revised the impact aid program.

Could you give us your impression of the types of changes in allocations amongst school districts resulting from these amendments?

In particular, could you tell us whether the allocations to the suburban communities surrounding Washington have decreased under those amendments and have the allocations to the large cities of the country increased?

Mr. STORMER. Let me take the latter first.

The allocations to larger cities have generally increased due to payments for low-rent housing children. In 1976 there were greater payments made to the central cities where low-rent housing exists.

With respect to the payments that reflect the D.C. metropolitan area we have that data. I might illustrate with respect to the District of Columbia.

For 1976 they received payment under the 3 As, 3 Bs, and the hold harmless for a total of $5.2 million. For 1977 estimates indicate they will be entitled to $4.6 million for the children.

In 1976 for Prince Georges County, Maryland, the payment was $10.7 million. In 1977, $10.2 million.

Chairman PERKINS. How about Montgomery County?

Mr. STORMER. For Montgomery County it was $6.2 million in 1976; in 1977 it is estimated to be $5.6 million.

Chairman PERKINS. In addition to the count of children under the impact aid laws, the main determinant of the amount of funds which a school district is to receive is the payment rate that the school district can use to determine its allocations. Could you please describe for us the payment rate under Public Law 874 and tell us how many school districts receiving impact aid have chosen each different type of payment rate or could you also tell us of any problems which you have encountered in administering that section of the law?

Mr. STORMER. Yes, Mr. Chairman. If I might, I will use data that I have before me. There were in 1975 1,632 applicant school districts in states using individually selected comparable districts to compute rates. Of the 1632 applicant districts, only 546 actually received a rate higher than either of the two minimums which are one-half the national and one-half the state average per pupil cost. There are approximately 1800 districts in states using group rates, but only half of these or 938 actually receive a rate which is higher than either of the two minimums, half the national or half of the state average per pupil cost.

There are 2,083 school districts receiving half the national average per pupil cost and 698 receiving one-half the state average per pupil cost.

The Office of Education receives data from local educational agencies as submitted to the National Center for Educational Statistics, and they are the ones which compute the national average for the second preceding year, the second year preceding the year of the application as well as state averages. In other states——

Chairman PERKINS. I am going to ask you to stand aside for the time being. I think we have a full committee quorum. We have several questions for both of you gentlemen.

We are going to discuss another matter.

(Whereupon, at 10:20 a.m., the subcommittee adjourned and the full committee proceeded to other business.)

(The subcommittee resumed at 11:20 a.m,. at which time the following occurred.)

Chairman PERKINS. Mr. Stormer, am I correct in understanding this chart to mean that every one of these school districts has lost money since 1974 as a result of the changes made in the law that year and am I also correct in understanding that Montgomery County has been cut back from $6.2 million to about $3.5 million?

Mr. STORMER. Mr. Chairman, I would like to correct this chart. Decreases did occur in the amount of money received by the metropolitan Washington school districts. I would like to supply for the record at a later time more accurate figures. The figures on this sheet do not represent a decision which was made a month or so ago that HH-C payments in 1977 and 1978 would be made to the metropolitan area school districts at 90 percent of the preceding year. If we may, we will supply you a corrected table.

[The information referred to follows:]

	1975	1976	1977 1/	1978 2/
District of Columbia				
3(a)	282,579	709,279.50	499,343.21	524,000
3(b)	5,021,669	3,937,967.04	3,514,098.70	3,500,000
Subtotal	5,304,248	4,647,246.54	4,013,441.91	4,024,000
HHC	-	581,535.52	553,453.61	161,000
HHD	-	-	-	-
Total	5,304,248	5,228,782.06	4,566,895.52	4,185,000
Prince Georges County				
3(a)	1,087,256	1,656,633.72	2,093,232.75	2,198,000
3(b)	9,942,362	3,737,528.20	3,344,866.45	3,350,000
Subtotal	11,029,618	5,394,161.92	5,438,099.20	5,548,000
HHC	-	4,373,603.07	3,912,294.71	3,138,000
HHD	-	895,919.03	869,381.67	831,000
Total	11,029,618	10,663,684.02	10,219,775.58	9,517,000
Montgomery County				
3(a)	87,954	98,409.88	105,991.15	111,300
3(b)	6,789,528	3,007,742.31	2,918,480.69	2,920,000
Subtotal	6,877,482	3,106,152.19	3,024,471.84	3,031,300
HHC	-	2,411,824.49	1,973,748.30	1,458,000
HHD	-	694,667.68	610,697.40	577,000
Total	6,877,482	6,212,644.36	5,608,917.54	5,066,300
Fairfax County				
3(a)	1,456,427	1,654,704.59	1,733,307.99	1,820,000
3(b)	14,038,162	8,073,163.76	8,547,392.42	8,550,000
Subtotal	15,494,589	9,727,868.35	10,280,700.41	10,370,000
HHC	-	2,530,792.13	892,064.00	-
HHD	-	2,097,271.91	1,992,018.13	1,905,000
Total	15,494,589	14,355,932.39	13,164,782.54	12,275,000
Arlington County				
3(a)	193,535	296,547.96	355,641.10	373,400
3(b)	2,026,884	941,355.55	860,705.39	861,000
Subtotal	2,220,419	1,237,903.51	1,216,346.49	1,234,400
HHC	-	643,907.12	583,618.53	428,000
HHD	-	250,901.91	209,860.31	200,600
Total	2,220,419	2,132,712.54	2,009,825.33	1,863,000

1/ Application estimates; subject to change by Final Report data.

2/ Estimates based on the same level of funding as provided by the 1977 appropriation.

Chairman PERKINS. As you have described in your testimony, the 1974 Education Amendments have made your task more difficult than before in administering the impact aid laws. Could you tell us how many additional staff positions your division has received since 1974? Could you also tell us or estimate how many staff positions you would need to do the best possible job?

Mr. STORMER. Mr. Chairman, our staff ceiling at the present time is 62 positions, which represents an increase of 15 positions over 1975. The additional positions were provided to us by the second supplemental in 1976. Against that ceiling of 62 positions, we have 52 persons on board. In addition to this, in the 1977 supplemental we received 17 additional positions, 11 of which represented positions to support the regional program officers and six positions which would come to headquartrs bringing our total ceiling to 68. At this point in time we have not been allocated the additional six positions for headquarters.

We believe——

Chairman PERKINS. Just hold it for a moment.

Bring everybody back in here.

(Whereupon, at 11:25 a.m., the subcommittee adjourned and the full committee proceeded to other business.)

(The subcommittee resumed at 11:30 a.m., at which time the following occurred.)

Chairman **Perkins**. Mr. Martin, the first task which the GAO was asked to undertake was to determine the degree to which fraud or administrative laxity existed in the program. Did you in fact find any fraud in the program and to what degree did you find overpayments or underpayments in the program?

Mr. **Martin**. Mr. Chairman, we did not find any evidence of fraud during our review. We did find some overpayments but those were as a result of errors in calculation and determinations of eligibility, not as a result of fraud or abuse.

Mr. **Quie**. In the GAO report they mention one local education agency in its instructions to teachers reminded them of the eligibility standards saying if a parent works for Coca Cola Bottling Company and his route is through the Marine base or the survey date, he qualifies. That is not fraud?

Mr. **Martin**. We did not interpret that as being fraud. Our interpretation of that was the regulations and instructions by OE were not clear as to what "worked on federal property" meant and that was the interpretation of the teachers of that. We have recommended that that regulation be clarified so that in the future working on Federal property will mean actually employed on a full-time basis or at least on some significant basis on federal property.

Mr. **Quie**. May I ask what has been done to clear up what seems to be an unclear regulation?

Mr. **Stormer**. A follow-up was done to find there were no children claimed of that particular driver. There has been a problem of what has been "employed on" versus "working on" Federal property. At one point in time it was the interpretation of the program that if an employee of a private concern, such as a Coke distributor, was operating out of a distribution station which was located on Federal property that his children would be eligible to be counted as federally connected.

A similar kind of situation would be a branch bank which would be located on a military installation, whereby the employees of that bank would be employed there every day of the week. Of course, their main operation would be where their headquarters would be off the base, but they would be employed on the base and therefore their children would be considered federally connected.

Mr. **Quie**. It doesn't make any difference who paid them then?

Mr. **Stormer**. No, it did not make any difference at that point who paid them.

If I might further the illustration, employees of the Office of Education, are housed in FOB-6, are housed in the Donohue Building, or housed in the Reporters Building here in the District of Columbia. Those parents who are employees of the Office of Education who are housed in FOB-6, 400 Maryland Avenue—and let's make the assumption they reside within the District of Columbia and attend school within the District of Columbia, their children would be eligible to be counted federally connected. However, the parents who were—taking the same assumption of residence and schooling—were located in the Donohue and Reporters Buildings would not be considered to be eligible to be counted under the program because they are housed in commercial buildings which are occupied temporarily by the Office of Education and taxes are paid on those commercial buidings.

Mr. **Quie**. If they are located and do any work, it doesn't make any difference who they are paid by; it is just the location?

Mr. **Stormer**. The location of the property on which they are employed and working.

Mr. **Quie**. In other words, if a person lives off, we will say, a national park, and is not working for the Federal government, but for a concession located in the national park then their children would be considered impact children if they were located there on the day of the survey?

Mr. **Stormer**. If they were employed on the Federal park property constantly.

A further illustration of that might be that there are lumbermen who are employed on Federal property a substantial portion of their time cutting timber, although they are privately employed. They are working on federal property and if they were there during the count date, they would be considered—their children would be considered federally connected, assuming they were working a substantial portion of their time on that Federal property.

Mr. **Quie**. That doesn't seem proper to me. Do you have the regulations written now taking care of the Coke driver and so forth?

Mr. **Stormer**. We have not revised regualtions in their most recent form, which would take care of the definition employed on.

Mr. **Quie**. You have not?

Mr. **Stormer**. No.

Mr. **Quie**. When are you going to do it?

Mr. **Stormer**. We have instructed our program officers in their reviews to tighten up on the identification of this. We would propose that we will have regulations modifying an interpretation of employed-on and working-on within the year.

Mr. **Quie**. Within the year? You are talking about 12 months from now or within this calendar year?

Mr. **Stormer**. Within this calendar year, hopefully.

Mr. **Quie**. Why does it take so long to do that?

Mr. **Stormer**. Principally it has been a matter of manpower and time, not only with this regulation, but with other regulations applying to the program. Our equalization regulations, our regulations relative to low-rent housing children, with respect to handicapped children, all of which are ones which require debate, discussion and time in order to come out with a result which we believe would be equitable in terms of the statute.

Mr. **Quie**. Would you submit a copy of that to this committee before the end of this calendar year?

Mr. **Stormer**. Yes.

[Note: Testimony on page 62 indicates that this "insert" is not expected until "before the end of this calendar year".]

Chairman **Perkins**. Mr. Martin, another task which we asked you to undertake was to analyze the net economic burden caused by the presence of federally connected children in local school districts. The results of this survey, as I read it, were based upon reviewing approximately 1600 school districts.

Now, for the record, could you tell us whether you believe that these results are valid for all 4500 receiving impact aid, since you only made the survey on 1600?

Mr. **Martin**. Mr. Chairman, no, we do not think it can be projected to the total 4500. We selected these from 16 states because they were the states where we could get comparable data and where we could do the analysis, but it is not a projectable result.

Chairman **Perkins**. In a nutshell, could you tell us exactly how you believe the impact aid law should be amended in order to provide for the most equitable type of a program?

Mr. **Martin**. Along those lines, Mr. Chairman, we did analysis using several different assumptions. We included that information in the report for the committee's consideration in determining whether or not it should amend the impact aid program. If you would like, I can have Mr. Harrison, our Operations Research Analyst, give you some information on what were those assumptions and what were the results of those assumptions.

Chairman **Perkins**. You mentioned in your statement—and I believe it is important to reiterate this fact for the record—that your report is based upon the effects of the previous law prior to the amendments of 1974? Is that correct?

Mr. **Martin**. It is based on the law prior to the amendments of 1974, that is correct.

Mr. **Heftel**. Mr. Stormer, when the Administration let it be known that it would like to eliminate impact aid and that it was reflecting an attempt by prior presidents to unsuccessfully eliminate impact aid, what was the communication between your office, your personnel, and the Administration prior to those statements?

Mr. **Stormer**. I don't know exactly how to answer your question. There was little dialogue. The position has been expressed periodically by various administrations. Yes, we recognize there are some reforms——

Mr. **Heftel**. I am not concerned about the need for reform, amendment, realignment. I am talking about the basic premise of impact aid. The theory that those school districts who educate children, where property taxes are not available to the district because of the Federal government being tax-free, that is the basic philosophy we are talking about. In terms of that philosophy, has there been dialogue between you and today's administration concerning their opinion about impact aid?

Mr. **Stormer**. There has not been extensive dialogue between our office and the current administration. We are engaged in a series of meetings at the present time to which we have been invited to attend and express our viewpoint with respect to impact aid.

Mr. **Heftel**. Do you philosophically support the theory that the Federal government must have a system of compensation to school districts where they have Federal installations, but do not have tax revenues, and therefore must have Federal substitutes for education of the students brought to the district as a result?

Mr. **Stormer**. I would support that philosophy.

Mr. **Heftel**. Is there any question in your department that the need for this is understood well enough to communicate it to the Administration?

Mr. **Stormer**. Yes, I believe the Administration currently recognizes that there is a need, particularly with the A category children. I think there is question in the minds of a number of people with respect to the total B classification, but I think there are reservations there in certain categories.

Mr. **Heftel**. There are two other approaches that perhaps should also be discussed and that is the theory of evaluating what would be the property taxes if the Federal government were paying these taxes. So we at least know what it is that impact aid costs in relation to what would have been the normal property taxes in the United States to the separate districts, counties or states in terms of property taxes based upon the evaluation of the property and then applying the local tax rate to it. Certainly it would seem to me that that is the minimum that the Federal government would expect to be paying as a result of the fact that it is tax-free in those locales.

Mr. **Stormer**. There has been some dialogue on this proposal. One of the considerations or one of the portions of that dialogue is, to subsidize the communities for the loss of taxes, as a result of the valuation of existing Federal property, might cause this program to be extremely inflated over what it currently is.

Mr. **Heftel**. Are you saying if the government was paying the normal property taxes in the United States for the installations it owns that it would be more than impact aid costs?

Mr. **Stormer**. That is what I am trying to say by a substantial margin.

Years ago, when some of the Federal property was taken for military installations, those properties were rural, isolated and as the years have progressed some of those properties today are extremely valuable, compared to adjacent properties which are being used for residential, industrial and commercial uses.

Mr. **Heftel**. The reason this becomes critical is that there is an impression that somehow impact aid is an improper expenditure, that somehow it is an imposition of expense upon the federal government that is not fair and equitable. We have to get to the philosophy underlying the reason for it and we have to come up with a premise that the public and the present administration and any administration will understand. Certainly the lack of dialogue between the administration and your department would indicate that they are just parroting that which they have heard as a place to cut costs without any philosophical understanding of why it exists in the first place.

Another question: Has it occurred to your department and the administration in your discussions that all of the local municipalities could pass non-resident tuition fees to all students who attend school, and wherever you have a Federal employee who is not a resident of that district there would be a tuition fee?

Mr. **Stormer**. There would not be an impact aid payment possible to the school district if that should occur. Also let me backtrack a little bit. Many of the school districts which are served by this program have been so served over a period of roughly 25 to 27 years and during this period the school districts did in their receipt of impact aid both under construction, as well as maintenance and operation, provide assurances to the Federal government that they would, for example, receive assistance for school construction and therefore would provide free public education to these Federally-connected children for a period of not less than 20 years from the receipt of this assistance.

What I am illustrating is that in terms of today, we have had on a few occasions a school district saying, "No, we will not accept the burden of educating these Federally connected children" and we have had to say, "But you did in the past and you provided the Federal government assurances that you would continue to do so," and therefore the threat of imposing a tuition upon these children ha been withdrawn.

Mr. **Heftel**. Could we ask of you at least two things?

First, in a reasonable period of time, a delineation of the reasonable appraised value of all of the affected Federal lands and Federal installations in the fifty states—which I am sure you must have in some form—then an application of the local tax rate to that appraised value, so that we can determine what the Federal Government would be paying in normal, local taxes if there were no impact aid as an excuse for not paying those taxes.

Do we have a basis of comparison to find out whether the Federal government is paying excessively for its tax-free status, or whether in fact it is a bargain on a dollar basis and an absolute must for school systems where these children go to school and the systems would otherwise not have the impact aid funds.

Secondly, could you tell us how you as the administrator and responsible head of the program can suggest to the Congress a system of determination of aid which does not result in a statement by you which is an indictment before you start of your own program, and which occurs on basically the first page of your statement where you say:

"As a result, what was a complex law was made even more complex and confusing . . ."

Confusion indicates we don't know what we are doing. Administration, education, HEW and the Congress all combined were confused; we don't know what we are doing. ". . . to both applicants and administrators."

That is an indictment when you say it is confusing to you and to those who use it. It is understandable impact aid is always suspect because those who need it and head it as you do tell us it is confusing.

Now, we need a proposal from you to tell us how to administer this program so that you don't indict it by calling it confusing in the first paragraph of your statement to us because that is all people are going to remember. It must be a waste of money because if it is confusing, how can you understand what you are spending and what you are doing?

If we could have those two things from you, we could then go from there in, first, letting the people and the government understand that it may or may not be spending excessive funds through impact aid and that, secondly, you have come up with a proposal for administering this program which you do not think is confusing, so that you don't indict it before you start when you testify before us.

Mr. **Stormer**. May I respond to the first one? as I indicated, the present Administration is undertaking evaluation and studies of the program in its present form and the consideration of possible modifictaions to that program.

As a part of these studies, I am generally aware, there will be some consideration as to a sampling of the valuation of Federal properties versus current tax rates, but I would hesitate to say to you we could provide you this information, particularly within a reasonable period of time, because there are roughly some 29,000 pieces of property owned by the Federal government throughout the United States and they comprise a portion of many school districts all of whom have varying tax rates to support public education.

In its total, we could probably offer a sampling for illustration purposes, but I doubt we could accomplish what you have requested.

Mr. **Heftel**. I don't mind a representative sample which you say is valid, but if you come in with a sample which you say is not valid, it is worthless. If you can't develop a valid sample or determine the total economic value of the federal installations, then apply an average of all local rates, or apply them item by item, I would have confidence that the Congress could do this, but certainly we must find out who can do it. If you can't, tell us and we will have to assume the responsibility.

No Administration, including President Carter's Administration, can evalute impact aid without these critical sources of information from which to make judgments, because you are telling us they were making judgments before they talked to you. You are telling us you are now talking with them but they still sound like they are making judgments and it seems like we must have the responsibility of making sure that when judgments are expressed by the Administration and the President of the United States, it is based upon available knowledge which has not been put together, for whatever reason.

Mr. **Stormer**. I am not even sure that within our own department we could put together a selective sample which would indeed be attested to as being wholly valid in terms of projecting that kind of appraisal over the total 29,000. This may be and is one of the considerations that was underlying the proposal of determining the Federal burden versus the economic benefits that was referenced in the '74 amendments, and the study of a study was prepared to identify models which could be examined with respect to whether there was a benefit or a burden in school districts as a result of Federal activity.

To the best of my knowledge, that proposal of a study which took, I guess 18 months, 24 months even, to get the proposal prepared—I don't believe there was any action taken on it——

Mr. **Heftel**. Excuse me. I am going to turn the chair over to my esteemed colleague who has been on this committee for some 20 years and knows far more than I, but I do know we are still hearing about compromises in which we will phase out over three to five years this so-called unnecessary and unfair impact aid program. That kind of dialogue and that kind of news reporting has got to stop. We have got to find out if we know what we are talking about and somebody has to be responsible for knowing what they are talking about. There is a reason for impact aid. We have got to find out what it is. If we can't get it from you, you who head the program, we have to find out within the Congress how to do it.

Right now we are being told this program is not one that is fair to the American people; that it is not equitable; that it should be phased out, and none of that is supported by the facts, I think that as I hear the presentations today, as I am told it is confusing by the people who head it, I am disturbed and I realize initiative is going to have to be taken somewhere, whether it is with you, the Administration or the Congress. But impact aid is there for a reason. It must be expressed to the American people and the Administration and certainly what I have read and heard today does not give me great feelings of confidence about where we are going with impact aid.

I thank you very much for your time.

Mr. CORRADA. Mr. Chairman, I have a meeting I have to attend. Would Mr. Quie yield for one question?

Mr. QUIE. I will give you one question.

Mr. CORRADA. On Thursday, Mr. Stormer, there will be some witnesses here testifying on the very alarming situation in Puerto Rico. I am speaking of the horrible conditions which exist and have existed in a Section 6 school at Fort Buchanan. The conditions which pupils and teachers have had to endure over the years warrant attention.

The students, children of Federal officials in Puerto Rico working, like Veterans Administration, FBI, etcetera, are supposed to get an education comparable to that of the District. Something has to be done about this problem. It is not my purpose to rehash what you already know. We don't need another study. I am asking for your support and cooperation over the coming months when we have the structures that have been in the halls of Congress, getting in an appropriation bill direction to build these portable structures which will cost $360,000 are set up without any complications.

On this aspect I would welcome your assistance to solve that very serious problem there.

Mr. STORMER. We will attempt to do that, assuming the appropriation is passed and there is the money available which is at this time earmarked for that purpose.

Mr. QUIE. I have been involved in studying Indian education, which is now under the jurisdiction of this committee. Do you feel there is anything unique about Indians, comparing it with impact aid for other students under the Federal government?

Mr. STORMER. In terms of the educational offerings that are provided to the Indian?

Mr. QUIE. In terms of Federal responsibility.

Mr. STORMER. Federal responsibility certainly in the sense that in many instances the children reside on tax-exempt lands which in many instances comprise a substantial portion, if not the majority of the land that is within the school district. As a consequence, there is no resource to support the educational opportunities offered these children except those resources that are available from the

Federal government and the state. I am aware that in some school districts it strictly is the state and local monies that support the educational opportunities. The question being whether both of them are supporting it with their fair share in the former districts.

Mr. QUIE. We have a treaty with Indian nations. We don't have the same arrangement at military bases. Indians don't pay income tax in states while military people do, in whatever state they come from. Indians don't pay sales tax. Military people do, if they buy off the base. I think those are some other reasons why it is different.

How would you feel if we changed P.L. 874 with regard to Indians in that we would pay not only for the local share of education, but the state's share as well on the one hand, and then because of the unique treaty arrangements that permit the Indian parents to have a voice in the expenditure of that money, similar to what we have done in Johnson-O'Malley now, to permit a voice in the expenditure of the money?

Mr. STORMER. With respect to parental participation, you well recognize our law does require assurances be provided by the local educational agencies, presently, that parental participation in the planning of the programs for their Indian children is required. Also that the children who reside on Indian lands are participating in the educational programs, that they are receiving equitable treatment similar to other children within the school district. Both of these assurances were made a portion of Public Law 874 and we are attempting to, through our program officers, see that those assurances are carried out.

Mr. QUIE. How much voice do the Indian parents actually have? Is it strictly advisory or do they have some veto power?

Mr. STORMER. I think you have a continuum. In a number of school districts the Indians serve and sit as a majority on the School Board. In some instances they serve as a minority on the School Board. In other instances——

Mr. QUIE. That is not because of P.L. 874 though.

Mr. STORMER. No.

Mr. QUIE. I am talking about what is required. You talk about what the law requires in P.L. 874.

Mr. STORMER. I couldn't give you a precise assessment as to how much participation is actually occurring. I would presume inasmuch as we have not received information from our program officers indicating it is to the contrary, that the parents are participating in an advisory role, and maybe, possibly, in some instances, in a more firm fashion than that.

Mr. QUIE. Can you supply the regulations on the requirements and then a survey of what actually is occurring?

Mr. STORMER. We will send that to you.

[The information follows:]

Our regulation concerning assurances with respect to Indian children is as follows:

Section 115.14 Assurances and parental participation with respect to Indian children for applications under section 3.

(a) Each application for payment under section 3(a) or section 3(b) of the Act which is based upon children who reside on or reside with a parent employed on Indian lands (as included within the definition of Federal property under section 403(1)(A) of the Act) shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the applicant local educational agency.

(Pub. L. 92-318, section 411(a); (20 U.S.C. 240(a)(2)))

(b) Each application based upon children as described in paragraph (a) of this section shall:

(1) Set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated in consultation with, and with the involvement of parents of, the children to be served by such programs and projects. Applicants must submit a brief statement describing such policies and procedures with each application;

(2) Be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) Set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public. Applicants must submit a brief statement describing such policies and procedures with each application.

(c) It shall be the responsibility of the applicant local educational agency to provide to the parents of such children:

(1) Opportunity to make recommendations to the local educational agency concerning the needs of the Indian children;

(2) Opportunity to consult with the local educational agency concerning the ways in which such parents can assist their children in realizing the benefits to be derived from the educational program of the local educational agency; and

(3) Opportunity to present their views to the appropriate school personnel concerning the educational program and parental participation.

(20 U.S.C. 1231d; Pub. L. 92-318, section 411(a))

The application for assistance under P.L. 874 contains a number of assurances of which the following apply specifically to school districts educating children residing on Indian lands:

"Indian children claimed under Section 3(a) or Section 3(b) who reside on, or reside with a parent employed on Indian lands will participate on an equitable basis in the school program as all other children educated by the local education agency."

"Policies and procedures have been set forth and implemented to ensure that parents of Indian children claimed for Indian lands under Section 3 have been consulted and involved in the planning, development, and operating of program and projects assisted under this application for such children. (Attach a brief statement describing such policies and procedures)."

"Parents of Indian children claimed from Indian land under Section 3 have had an opportunity to make recommendations concerning the needs of such children, and the ways these parents can assist the children in realizing the benefits to be derived from the education programs, as well as to present their views concerning the educational program and parental participation."

"Policies and procedures have been set forth and implemented to adequately disseminate program plans and evaluations to the parents of Indian children claimed for Indian lands under Section 3 and to the public and that such parents have had an opportunity to present their views with respect to the application. (Attach a brief statement describing such policies and procedures)."

"The "handicapped children" and "children with specific learning disabilities" claimed in Tables 1 and 2 are receiving services in programs which are of sufficient size, scope, and quality as to give reasonable promise of substantial progress toward meeting the special educational and related needs of such children."

During on-site reviews of school district records, SAFA Regional Program Officers are required to discuss these assurances with local education agency officials and to review documentary evidence indicating compliance. We plan soon to develop and implement procedures that will provide a readily available report on the names of Indian school districts that are visited each year and collect examples of documents that assure compliance. Some of these data are contained presently in individual application files which are maintained by State and application number rather than by type of school district.

Mr. **Stormer**. If I can go back to the earlier portion of your question with respect to whether the Indian children should be supported one hundred percent by Federal funds and no participation by state funds, I would be inclined to—and I am speaking personally, not as a representative at the present time of the Administration—personally I think that would not be an appropriate response. I think the state must participate to some degree in the support of their children, of all children who reside within the state boundaries, and it is a combination of state and Federal responsibility for those children.

I would question whether or not a youngster, an Indian youngster who is relying one hundred percent on Federal funds, would be equitably treated, in this status within the state if the state did not have some participation in their educational resonsibilities.

Mr. **Quie**. Are Indians involved in states where they can't take P.L. 874 money into consideration because of equalization within the states?

Mr. **Stormer**. Are they involved in those states?

Yes.

Mr. **Quie**. In effect there is no state—the Federal government does not reimburse the state, but the state can take into consideration the P.L. 874 expenditures when they provide their local support to the schools. I use New Mexico as an example.

Mr. **Stormer**. New Mexico is heavily populated with Indian personnel and the state is attempting to support, through their equalization formula, the educational costs for both Indian and non-Indian and, as a result of payments under 874, they are charging back those payments as local receipts in their determination of the amount of state aid which will be provided to the local school district.

Mr. **Quie**. So we have a mixed bag then depending on whether the state has an equalization formula or not. We have some equitability with regard to Indians. I think we need to take that into consideration.

Under equalization how many states do come under that equalization option?

Mr. **Stormer**. At the present time we believe there are four states. There are four states we know are charging back.

Mr. **Quie**. Four states qualify?

Mr. **Stormer**. No, I am not saying four states qualify. There are four states considering 874 payments in their computation of state aid that we know of. You well recognize that those are New Mexico, Kansas, North Dakota and Maine.

We have had a request from Alaska to evaluate their state equalization program to see whether or not it might qualify under the regulations for equalization.

There are probably another half dozen states which are currently considering 874 payments as local resources in computing state aid.

At the present time we don't know whether they qualify or do not qualify. We have written six states and requested data on their state and local resources in order to commence an evaluation of their state aid programs to see whether or not they would qualify under the fiscal disparity test, which is the only test which is final at the present time. However, it does not really become effective until after July lst. It becomes effective in 1978 due to Public Law 94-482. The effective date was set at July 1, 1977.

The wealth neutrality test or criteria have been proposed under the rules at the present time and apparently should hit the Federal Register as a final rule hopefully within the next 30 to 60 days.

No one has been determined to have a program designed to equalize expenditures which is acceptable to the commissioner, as yet.

Mr. **Quie**. Would you say the four you referred to are grandfathered in at the present time?

Mr. **Stormer**. They are grandfathered in at the present time. The indications are that under the two sets of criteria, probably two states will meet the criteria and two states will not.

Mr. **Quie**. Have any been turned down specifically as yet?

Mr. **Stormer**. No.

Mr. **Quie**. Mr. Pressler asked me to ask you how many districts have submitted requests under the pinpoint disaster provision and how many are located in South Dakota.

Mr. **Stormer**. May I supply that for the record?

Mr. **Quie**. Yes.

[The information follows:]

As of June 23, 1977, 33 pinpoint disaster applications for assistance under P.L. 874 have been received and one under P.L. 815. Several school districts have filed more than one application. Of the 399 applications under P.L. 874, one is from Wessington School District, Wessington County, South Dakota.

Mr. **Quie**. Mr. Martin stated under Part B there are 55 percent of the LEAs that would have to increase their taxes less than 5 percent. 21 percent would only have to increase between 5 and 10 percent and 8 percent would have to increase by over 25 percent. That leaves 16 percent between 10 and 25.

I need to ask you, Mr. Stormer, this, because I need to know what the characteristics are of the 8 percent who would have to increase their taxes more than 25 percent. I know you can't give that to me right now by giving me the characteristics of 8 percent of the LEAs, so you can submit it for the record.

Mr. **Quie**. When we think of school districts with an enormous increase in property tax, we tend to think of "A" districts.

Mr. **Stormer**. I thought you were addressing that question to Mr. Martin. I am sorry.

Mr. **Quie**. Mr. Martin could give us a survey of what he has looked at perhaps. Give me an idea of what those eight percent are like. What their characteristics are, so we on the committee can get a mental picture of them.

Mr. **Stormer**. We will supply that.

[Information retained in Subcommittee files:]

Mr. **Quie**. Of the current appropriation, how much goes to public housing children?

Mr. **Stormer**. Approximately $70 million.

Mr. **Quie**. Can you give us a breakdown?

Mr. **Stormer**. We can give you a district by district breakdown of the estimated entitlements as of July, 1976.

[Information requested retained in Subcommittee files:]

Mr. **Quie**. Also I mentioned a chart showing the amount of "B" money going to Fairfax, Montgomery, Arlington, Alexandria and Prince Georges County. If you can give us that and project what the payment will be in the coming year.

Mr. **Stormer**. That will be part of this chart which we are going to modify.

Mr. **Quie**. How much money is being spent to implement giving extra payments to districts that have handicapped children under 3(A)(ii) and 3(B)(ii)?

Mr. **Stormer**. By states?

Mr. **Quie**. I just want the total. I would really like to know how much goes to civilians, how much to military and how much to Indians. I would like to see that breakdown.

Mr. **Stormer**. In 1976, $13,381,400 went to handicapped military children of which $4,460,466 was the extra payment and $3,461,800 went to handicapped Indian children of which $1,153,933 was the extra payment. Those are the only two that are applicable under 874. the Military A and the Military B, and the Indian A's. There are no civilians receiving such payments. (See Appendix 3, Exhibit 2)

Mr. QUIE. Then the answer to that one is zero.

In 1974 there were some pretty significant amendments as both of you have indicated that included phasing out payments for the out of State B civilian children. Has that provision been fully implemented or do we still have some time?

Mr. STORMER. We have some time to run. The HH-C expires in '78. We can report to you the numbers of children who are out of state by districts and the payments that are made to these districts are 90 percent of the preceding year's payments when they qualify under HH-C and then it phases down 90 of 90 of 90 and then in '78 it terminates.

Mr. QUIE. We have one more year.

Mr. STORMER. We have 1978 to go.

Mr. QUIE. Could you give us a picture on that? I want to see how far that has gone. I want to find out if we are up against a cliff or will have a big protest when '78 comes in.

How many of the Section 6 schools are there?

Mr. STORMER. There are 26 Section 6 schools distributed around the country.

Mr. QUIE. Can you tell us where they are then and how long they have been in existence?

Mr. STORMER. Yes, we can provide that.

[The information follows: (Also see June 23rd hearing for further information.)]

In 1976, a little over 100,000 out-of-State B children were claimed by applicant school districts for possible eligibility under Hold Harmless C. Several hundred school districts qualified for payments under HH-C in 1976 for a total of $17 million. (The total would have been greater if HH-D had not been funded.) Of this total, $10.5 million went to the District of Columbia and surrounding counties as indicated by the table of data on the D.C Metropolitan area that was inserted earlier in the testimony. The table also contains estimates for 1977 and 1978 which show how such payments decrease each year. For the D.C. area, HH-C payments are estimated to total $7.9 million in 1977 and $5.2 million in 1978.

Present Section 6 arrangements and the dates they were established under Section 6 are:

Alabama, Craig Air Force Base (AF), 1954; Alabama Maxwell Air Force Base (AF) 1963; Alabama, Fort Mc Clellan (Army), 1963; Alabama, Fort Rucker (Army), 1963; Delaware, Dover Air Force Base (LEA), 1959; Georgia, Fort Benning (Army), 1952[1]; Georgia, Fort Stewart (Army), 1963; Georgia, Robins Air Force Base (AF), 1963; Kentucky, Fort Knox (Army), 1952[1];Kentucky, Fort Campbell (Army), 1952[1]; Louisiana, England Air Force Base (AF), 1963; Massachusetts, Laurence C. Hanscom Field (AF - Elem. - LEA), 1959; Massachusetts, Laurence C. Hanscom Field (AF - H.S. - LEA), 1959; New York, U.S. Military Academy West Point (Army), 1952[1]; New York, Coast Guard Base, Governors Island (Trans.), 1952; North Carolina, Fort Bragg (Army), 1952[1]; North Carolina, Marine Corps Base Camp Lejeune (Navy), 1952[1]; Oregon, Crater Lake National Park (LEA), 1962; Pennsylvania, Erie Coast Guard Station (LEA), 1962; South Carolina, Marine Corps Air Station, Beaufort (Navy), 1961; South Carolina, Myrtle Beach Air Force Base (AF), 1962; South Carolina, Fort Jackson, (Army), 1962; Virginia, Quantico Marine Corps Schs. (Navy), 1952[1]; Virginia, Dahlgren Naval Weapons Lab (Navy), 1952[1]; Puerto Rico, Antilles Cons. Schs. (Navy), 1952[1].

Mr. QUIE. What is the possibility they could be taken over by a local public agency?

Mr. STORMER. There is a likelihood in a number of instances that this could occur. It requires, due to the Quantico amendment, a joint agreement between the Office of Education, the Department of

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[1] Established by the military prior to passage of P.L. 81-874.

Defense, the military branch, the local educational and State educational agencies to phase down or transfer these operations to the local education agencies. There have been transfers occurring periodically during the past and there are transfers which probably could occur in the future, depending for one thing upon the conditions of whether or not the local educational agency has facilities within which to handle the children or whether facilities on base might be used to handle them.

An illustration of this is in 1969 the Fort Belvoir installation was a Section 6 operation. In 1969 the Fairfax County School District accepted responsibility for these children and received payments for them under Section 3.

Mr. **Quie**. I have a question on P.L. 815. Could you indicate how many of those requests would qualify and the number you can fund under P.L. 815?

Mr. **Stormer**. In terms of the 1977 appropriation?

Mr. **Quie**. That is right. This past year.

Mr. **Stormer**. We can give you an idea on that.

[The information follows:]

There are presently 8 project requests in Group II of the Section 10 priority listing. Group II applications are those in which the local education agency operating the federally owned school facilities has assured the Commissioner of Education that it would accept ownership of them once the agreed upon improvement and rehabilitation work is completed.

FY 1977 funds appropriated for Section 10 have been expended for projects in Group I which are those applications requesting major repairs necesary for the safety of school children or to prevent further deterioration of existing school facilitites. The balance of Section 10 funds now available is not sufficient to fund the first project in Group II on the priority list.

These Group II projects are:

Fort Belvoir, VA 77-C-FED-2A27; Elmendorf Air Force Base, AK 77-C-FED-3; Parker Dam, CA 77-C-FED-12; Edwards Air Force Base, CA 77-C-FED-8; Plattsburgh Air Force Base, NY 77-C-FED-7; Mather Air Force Base, CA 77-C-FED-3; Fort Hood, TX 77-C-FED-3; Fort Lewis, WA 77-C-FED-5.

Mr. **Quie**. How many districts are getting payments under Section 4? I understand there is a substantial increase in children.

Mr. **Stormer**. I am informed we have one this year and one last year. We will identify those for you.

[The information follows:]

There are no provisions for paying Section 4 entitlements in payment tiers 1 and 2. Thus, 100 percent of SEction 4 entitlement remains to be paid in payment tier 3. Funds available in the 1976 appropriation permitted payment of 6 percent of entitlements that remained to be paid in payment tier 3. The 1977 appropriation permitted payments to be made in payment tiers 1 and 2 only. Thus, no payments can be made for Section 4 entitlements in 1977.

There was only one eligible application under SEction 4 in 1976. That was from the York County Public Schools, Yorktown, Virginia. Their Section 4 entitlement is $4,26,244.14 of which only 6 percent or $25,574,64 can be paid.

The Papillion Public Schools, Papillion, Nebraska, applied for assistance under Section 4 in 1977. When they were advised that no payments could be made for Section 4 entitlements, they withdrew their Section 4 claim and amended their application to include the increase in children under Section 3 (for lesser entitlement) for payment thrugh payment tier 2.

Mr. **Quie**. Let me go back to Indians again. We have got Johnson-O'Malley which comes out of BIA and we have the Indian Education Act, administered by OE and P.L. 874 administered by OE, not to mention other sources of money, but those three can dovetail by population and by the responsibility for which we are going to use the money.

Johnson-O'Malley is supplemental and they are phasing out the basics for the supplemental entirely and P.L. 874 is for basic entirely.

Have you worked with the directors of the other two programs at all to try to work out some kind of coordination between them?

I am talking more about policy rather than coordination with the present law. We would like to change the law so it fits the Indian childrens' needs more.

Mr. STORMER. We have worked with the other units both within our own office and within BIA. We met in Pierre, South Dakota, with BIA representatives from Washington, as well as from several states represented in that area to see what could be done to improve the coordination between our payments and in that particular instance, JOM. We are running into the problem that JOM is in its second of a three-year phase-out of basic support. There was discussion as to how to consider the state local and 874 revenues and develop a formula whereby considerations could be given to providing JOM money for the shortfall that might occur between the use of state, local and 874, and that necessity to provide a basic level of education for the Indian children.

Secondly, I should mention that I will be discussing this problem of Indian education before subcommittee staff members either later this week or following the Thursday session next week. We will discuss our relationships under 874 with BIA and with our own staff and the problem of Indian education.

Mr. QUIE. Has anything been written up of those previous meetings that you had?

Mr. STORMER. I have strictly a draft at this point in time of the formula by which BIA was going to evaluate the resources and the basic level that was necessary to—the resources which were necessary to meet the basic level of education. I have not seen the final draft.

Mr. QUIE. Will that be available by the Thursday meeting?

Mr. STORMER. I will inquire. If it is available, I will have it with me, if only in draft form.

Mr. QUIE. I am not asking you to develop a policy yourself, because that will have to go through OMB and so forth and by that time we will have passed the legislation. I would like to get your assistance in drafting.

Thank you very much.

Mr. JENNINGS. I notice you have two types of analyses in the second part of your report. One is the dollar impact of different changes in payment and eligiblity provisions and the other concerns the effect of different changes in impact aid as regards property tax increases in school districts. Do I understand correctly that your statistics on the changes in eligibility and payment rates are based upon an analysis of all impact aid school districts, from the information available in their applications, but that your statistics based on the types of property tax increases which would come about are only based upon a sample of 1600 school districts?

Mr. MARTIN. That is true.

Mr. JENNINGS. With the sample of 1600 school districts, according to the Office of Education, more than fifty percent of all the impact aid school districts have fewer than one hundred students for whom they are claiming payments.

Is your sample of 1600 weighted in proportion to the different types of school districts there are receiving impact aid both in terms of numbers of pupils for which they are claiming payments and in terms of the payments they are receiving? Is it a weighted average?

Mr. Martin. Let me ask Mr. Harrison who is responsible for the performance of the analysis to respond.

Mr. Harrison. There is no need for weighting in this because this is a hundred percent sample in the states in which we did this analysis.

Mr. Jennings. Are the characteristics of those 1600 school districts identical to the characteristics of the 4500 districts receives impact aid?

Mr. Harrison. We have no way of knowing that. We looked at all the impact districts in the 1600 districts, but what there is in the other 3,000, approximately, we don't know about. We did not take our sample out of the 4500. We took states.

Mr. Jennings. Why did you choose those states?

Mr. Harrison. They were the states that had readily available data to us because they are the 16 states that use the comparable district method of computing payment rates. They have to develop the data on property taxes and so forth in order to choose their own comparable districts. In the other states we would have to create our own data base and we didn't have time to do that.

Mr. Jennings. The states which take comparable groupings of school districts, if I understand it correctly, tend to be the wealthier states because those which are going to take the fifty percent state or national average tend to be the poorer states, is that correct? Therefore, your sample of these 16 states would be weighted more toward wealthier states than a representative sample of states in the country.

Mr. Harrison. Included in our sample is the State of Oklahoma, for example. It happens that in the State of Oklahoma most of the school districts in that state actually used the minimum rate.

Mr. Jennings. How many southern States did you have among the 16?

Mr. Harrison. The closest to a southern school district is Oklahoma.

Mr. Jennings. Thank you.

Mr. Kildee. The hearings will be recessed until tomorrow morning at 9:30.

(Whereupon, at 12:25 p.m., the subcommittee was recessed to reconvene at 9:30 a.m., the following day, Wednesday, June 22, 1977.)

PART 5: IMPACT AID

WEDNESDAY, JUNE 22, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:00 a.m., in Room 2175, Rayburn House Office Building, the Hon. Carl D. Perkins (chairman of the subcommittee) presiding.

Members present: Representatives Perkins, Mottl, Weiss, Heftel, Kildee and Quie.

Staff present: John F. Jennings, majority counsel; Nancy L. Kober, staff assistant; Christopher T. Cross, senior education consultant.

Chairman PERKINS. The committee will come to order.

This is our second day of hearings on the impact aid legislation, which to my way of thinking has worked wonderfully well throughout the country.

I am delighted to welcome before the committee today one of our outstanding colleagues in the Congress, the Honorable Bob Sikes, from the great State of Florida, who was here when I first came to Congress. I know of his tremendous support for this legislation all through the years.

At this time I am going to ask the entire panel to come around, but ask Congressman Sikes to speak first. The panel will be comprised of Dr. H. David Fish, President, Impacted Area Schools, accompanied by Mr. Lanston E. Eldred; Mr. Francis L. Paul, School Business Administrator, Ayer Public Schools, Ayer, Massachusetts; Mr. Wayne Paxson, Associate Superintendent, Bellevue Public Schools, Bellevue, Nebraska; Charles Akins, Superintendent, Hardin County Public Schools, Elizabethtown, Kentucky—I have known Charles a long time; he has done a great job—Mr. Sydney Williams, Newport School Department, Newport, Rhode Island; and Mr. Max Bruner, Jr., Superintendent of Schools, Okaloosa County, Florida.

I will ask the Congressman from Florida to come around to the table, make his statement, and then introduce the superintendent from his district who is accompanying him. We will let him make his statement. Then we will get back to the regular order of Dr. David Fish.

STATEMENT OF THE HON. ROBERT L. F. SIKES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. **Sikes**. Thank you. It is very kind of you. I appreciate this opportunity. I am always happy to appear before your committee and to state, as I have many times in the past, that we in the House are tremendously impressed with the great work that you do as chairman, and the great job that your committee does for education. You have certainly made a record that is outstanding; a record whose beneficial effects live long in the annals of sound educational programs.

Mr. Chairman, I have the happy privilege of presenting to you the school superintendent of my county, the Honorable Max Bruner, Jr., Superintendent of Schools in Okaloosa County, Florida . This is a particular privilege because I know so well what this outstanding leader has done for schools in my county and in my state.

I am happy to state that Max Brunner is a warm and close friend and my neighbor. I have watched him build the Okaloosa County school system to, a higher successful level of operations. There are few if any which excel our school system.

I can say too, I don't know anyone who has had a more difficult job to overcome. There has been a tremendous influx of students, a tremendous number who have been brought to our area because of Federal personnel associated with Eglin Air Force Base and other Federal programs. This fact has made his job much more difficult. The fact that so much of our county is owned by state and Federal governments has increased the problem.

Despite all the handicaps, he has built a very fine educational plant throughout Okaloosa county. He just doesn't quit when there is work to do. He is very highly respected throughout the state.

I am pleased to have the privilege of of introducing my good friend, Superintendent Bruner.

Chairman **Perkins**. Thank you very much.

Your prepared remarks, all of you, will be inserted in the record Go ahead, Mr. Bruner.

[The statement of Mr. Bruner follows:]

SCHOOL BOARD OF OKALOOSA COUNTY
ADMINISTRATION BUILDING
120 LOWERY PLACE S.E.
FORT WALTON BEACH, FLORIDA 32548

BOARD MEMBERS
PAUL A. PETREY, JR., DMD
CHAIRMAN
FORT WALTON BEACH
J. M. ETHEREDGE
VICE-CHAIRMAN
FORT WALTON BEACH
ANDREW F. GIESEN, JR., MD
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MRS. ANNE T. MITCHELL
VALPARAISO
MRS. BARBARA MOORE
CRESTVIEW

OFFICE OF
MAX BRUNER, JR.
SUPERINTENDENT OF SCHOOLS
CRESTVIEW TELEPHONE 682-8103 EXT. 211
FORT WALTON BEACH TELEPHONE 244-2161

STATEMENT OF THE SUPERINTENDENT OF SCHOOLS, OKALOOSA COUNTY, FLORIDA, MAX BRUNER, JR. BEFORE THE HOUSE SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION, June 22, 1977

Mr. Chairman, I appreciate the opportunity to appear before your distinguished Subcommittee and being allowed to make this presentation concerning the funding of Public Law 874, specifically the category "B" students.

The School Board of Okaloosa County, Florida has, in my judgement, a unique problem with the amount of real property that can be taxed for educational revenue. The Eglin Air Force Base Reservation encompasses a vast number of total acres (approximately 45% of the total acres--see Attachment I, Okaloosa County Map) that are off the tax rolls and cannot be taxed for educational revenue. More specifically, the total county acreage is divided as follows:

TOTAL ACRES IN OKALOOSA COUNTY	595,028
Non-Taxable Property (Acres)	
Eglin AFB Reservation	267,575
Blackwater River State Forest	60,000
Total Acres Off Tax Rolls	327,575
TOTAL TAXABLE PROPERTY (ACRES)	267,453

I have included in the previous paragraph the total Federal and State owned property to emphasize the fact that there is less than half of the real property in Okaloosa County that produces revenue for local school support.

It is my understanding that P.L. 874 was enacted in 1950 specifically to provide revenue to school districts in lieu of local ad valorem taxes where real property is removed from the tax rolls. If, in fact, that was the original intent of P.L. 874, then I submit to this Subcommittee that the Federal ownership of property in Okaloosa County has not changed since the original enactment of P.L. 874. Therefore, we feel very strongly that there is a current and continuing rationale for both category "A" and "B" funding in Okaloosa County. The primary purpose of our visit here with this Subcommittee today is to present a statement of justification for continuing the funding of category "B" students. Some of these are listed below:

1. The "B" pupil's parent works at a property that cannot be taxed for school support. The "B" pupil resides either in a rented or owned home off of Federal property. However, only about one-half of the property taxes in our school district are paid on the basis of residential property, the other half being paid on the basis of commercial, industrial or agricultural property. Therefore, the ratio of "B" pupil payments at one-half of the "A" pupil payments was established according to sound logic in the original Impact Aid law. The conditions underlying the original Impact Aid law have not changed.

2. The concept of general Federal aid to education is closely approached by the Impact Aid philosophy. The plan puts money where the need is. It puts money in places where the heavy pupil load has been placed. It puts money for education where Federal activity has increased the pupil load and decreased the tax base.

3. In most impacted school districts the greatest load on the educational system has been imposed by the influx of "B" pupils, rather than by any other kind of pupils.

4. To reduce the amount of Impact Aid still further would be to continue the trend of withdrawing support from school districts which have already been made less able by reason of increased Federal enrollment. Generally, reduced Impact Aid leaves "B" pupils in school districts which are less capable than their neighboring school districts of providing an adequate or an excellent education. Thus, the Federal government tends to reduce educational opportunity for children of its employees to a level below the average.

We have a student membership of 26,114. There are 8,762 eligible "B" category students which constitutes an eligibility of approximately $1,300,000. If these funds are deleted, the School Board has absolutely no legal way in which to replace them by local or state effort since we are currently levying the maximum millage allowable under state law. For a complete analysis of Okaloosa County's P.L. 874 entitlement and loss of revenue if the "B" category students are not funded see: Table 1--Public Law 874, IMPACT FUNDS, Approximate Revenue, 1976-77; Table 2--Student Membership, Analysis of P.L. 874, Okaloosa County, 1976-77; Table 3--Total Entitlement for Category "A" & "B" Students before Proration of Funds; Table 4--Estimated Operating Budget Part I, 1977-78. The educational program that we are offering at the present time and the opportunities for boys and girls will be seriously damaged without this revenue.

There is a critical need to continue the funding of "B" students, preferably, at the original rate of one-half the amount paid for "A" students. The continued proration of funds during the past several years has created a fiscal nightmare in budget planning.

On behalf of the office of Superintendent, the School Board of Okaloosa County, the military contingency, and the people of Okaloosa County, I want to seriously appeal to you to support the funding of the "B" pupils and establish stability with this source of

Federal funds in order that we can be more effective and efficient in planning educational programs for the 26,114 students that we serve.

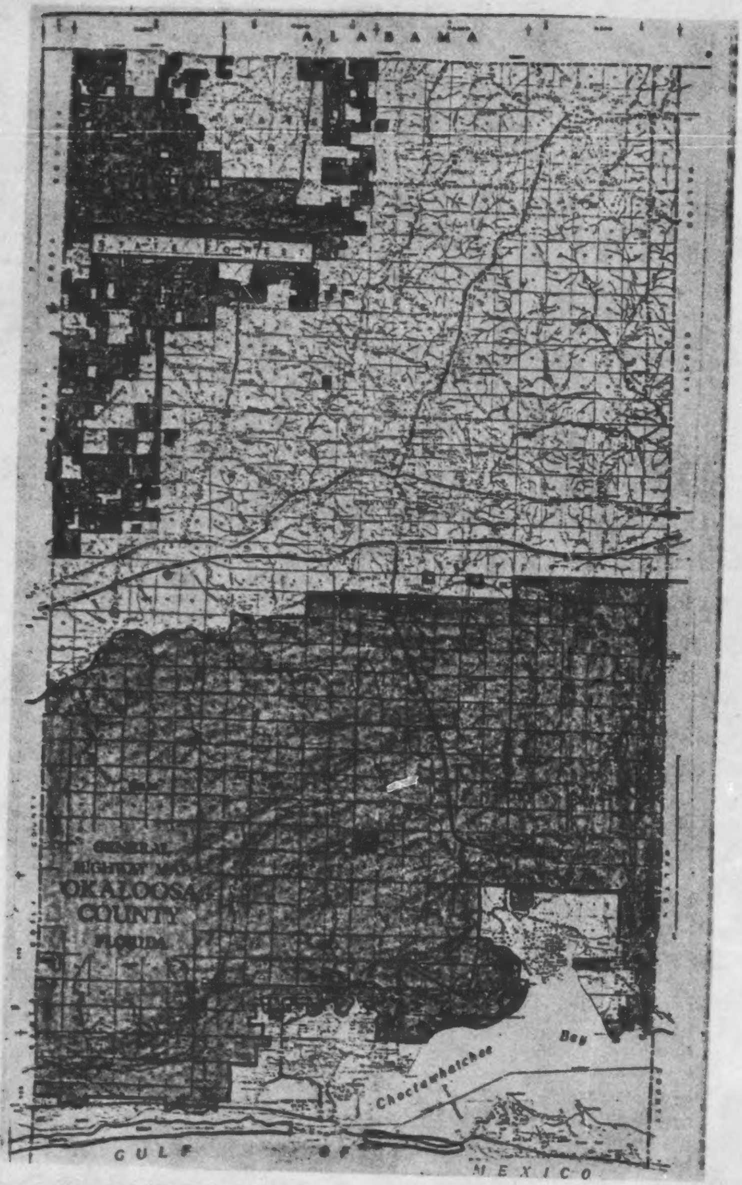
ALABAMA
GENERAL
HIGHWAY MAP
OKALOOSA
COUNTY
FLORIDA
Choctawhatchee
Bay
GULF OF MEXICO

TABLE 1

Public Law 874

IMPACT FUNDS

Approximate Revenue

1976-77

Cagegory	Entitlement %	Memb.	Est. ADA	Rate of Fund	Tier I Funding Level	Tier II Funding Level	Comb. Tier Funding	Est. Revenue to Receive
3(A) 2	100	3467	3195	646.20	25	65	90	$1,858,148.10
3(A) 1	90	10	9	581.58	25	63	88	4,606.11
3(A) 1 (LRH)	90	18	16	581.58	25		25	2,326.32
3(A) 2 (H.C.)	150	141	129	969.30	25	65	90	125,039.70
TOTAL A's								$1,990,120.23
3(B) 3	50	3753	3459	323.10	25	35	60	670,561.74
3(B) 3 (H.C.)	75	165	152	484.65	25	35	60	44,200.08
3(B)(2) A	45	4237	3905	290.79	25	32	57	647,254.92
3(B)(2)(A) LRH	45	503	463	290.79	25		25	33,658.94
3(B) 2 B	40	63	58	258.48	25	28	47	7,046.16
TOTAL B's								$1,402,721.84
TOTAL A's & B's								$3,392,842.07

TABLE 2

Student Membership
Analysis of P.L. 874
Okaloosa County
1976-77

Total Student Membership		26,114
Total Federally Impacted Students		
	Category A	3,666
	Category B	8,721
	Total	12,387
Percent of A's to total Student Membership	26,114 - 3,666	14%
Percent of B's to total Student Membership	26,114 - 8,721	33%
Percent of A's and B's to total Student Membership	26,114 - 12,387	47%

TABLE 3

Total Entitlement
For Category "A" & "B" Students
Before Proration of Funds

	Student ADA		Rate of Fund		Fund
Category "A" -	3349	x	646.20	=	$2,164,123.80
Category "B" -	8721	x	323.10	=	2.817,755.10
			Grand Total	=	4,981,878.90
			Actual Prorated Funds	=	3,992,842.07
			Funds Lost Resulting From Proration	=	989,036.83

TABLE 4

Estimated Operating
Budget Part I
1977-78

Part I	=	$27,000,000.00
Possible loss of Cagetory "B" Students	=	1,402,721.84
Percent loss to Operating Budget	=	5%

STATEMENT OF MAX BRUNER, JR., SUPERINTENDENT OF SCHOOLS, OKALOOSA COUNTY, FLORIDA

Mr. BRUNER. Thank you very much, Mr. Sikes.

Distinguished Chairman, members of the committee, it is a privilege and honor for me to be here this morning. I think I would be remiss in my responsibility here before you if I didn't tell you in what esteem we have held you down through the years as chairman of this very fine subcommittee, the outstanding job you have done for impacted areas all over the country.

I would just like to say that in my district, in Okaloosa County, 267 acres of land are off the tax rolls, actually—some 27,000 youngsters that I represent here. Almost 50 percent of the entire taxable property—almost 50 percent of the entire county is taken off the tax rolls, and only slightly less than 50 percent can we levy any taxes for educational purposes.

I have an enclosure I would like you to take a look at. (See Mr. Bruner's prepared testimony.) The coloring indicates the tax exempt property. We have roughly 100,000 people in the southern part of the county adjacent to Eglin Air Force Base. The white would indicate only the very minute taxable portion of our property there.

We believe that impacted legislation has been the lifeblood of our district, and certainly we would like to make an appeal to the committee to continue the funds in the 3(b) category. We believe although it is true some of these people, many of them do pay directly or indirectly ad valorem taxes, that so much of the land is taken off the tax rolls by the employer, which is the Federal Government, and is tax exempt, we would like to make a plea for the continuation of the full funding under the category (b) program.

Thank you.

Chairman **Perkins**. All right. That was a good statement. We will go now to Dr. Fish, President, Impacted Area Schools.

STATEMENT OF H. DAVID FISH, PRESIDENT, IMPACTED AREA SCHOOLS, ACCOMPANIED BY LANSTON E. ELDRED, CONSULTANT, IMPACTED AREA SCHOOLS

Dr. **Fish**. Mr. Chairman, we appreciate this opportunity to speak to you today, and members of the committee.

We also appreciate having our remarks entered into the record.

[The statement of Dr. Fish follows:]

Testimony on PL 874

June 21, 1977

By

H. David Fish

President, Impacted Area School

And

Director, Special Projects

San Diego Unified School District

San Diego, California

66

IMPACTED AREA SCHOOLS
INFORMATION SERVICE

Mr. Chairman and members of the Committee:

I appreciate this opportunity to appear before you today on behalf of the Impacted Area Schools. This week and next, you will hear testimony on Impact Aid, as my colleagues from large and small school districts across the country report to you on the operation of the program and its importance to their school districts.

After twenty-six years, the story should be familiar; but, unfortunately there are those who have forgotten or who have never heard. Worse yet, there are those who have committed themselves to the destruction of the program without realizing the injustice they propose to local taxpayers and the havoc they would bring to many school districts far from Washington.

We ask those who listen today or read the testimony that follows, to give this program the depth of examination and objective consideration that it is receiving from the Chairman and members of this Committee. We ask those of you who live in the Washington area to remember that we are talking about a national issue, not an isolated phenomenon in the neighborhood of the nation's capitol. For all of our listeners, we ask that you consider the premise that the long life of the program in the face of relentless executive opposition may be due to some fundamental justice that Congress recognizes, and that others who are not directly accountable to the local community do not.

In the impacted school districts, citizens are surprised that impact aid is a controversial issue. To them, there is no controversy. The non-taxpaying federal property is real, tangible and usually large, while the children of federal employees are being educated in the local schools. It is incomprehensible that the federal government, after removing property from the tax rolls, would consider not even partially assisting the local taxpayers in meeting the educational cost burden of educating the children who's parents work on that federal property. In the General Accounting Office report, there are several statements about what the effect on local property tax rates would be if the school districts did not receive Impact Aid. We wonder if the federal government has ever conducted a study on what the effect would be on users of electricity if the federal government decided not to pay its electric bill. A ridiculous and unfair proposition, but very similar to proposals now being made to phase out Impact Aid - somebody else would have to pay or educational programs would be reduced.

My colleagues will present specific information from their own districts about Impact Aid and the support of education at the local level (I also have included some data on the San Diego Unified School District.). Impact Aid is best understood from the perspective of the local case because as revenue for general purposes it is properly part of the overall educational program support of the school system. However, there are some basic principles and facts about Impact Aid and school finance that must be stated to establish the nature of the program as it relates to local school finance.

1. Impact Aid is general aid (except for low-rent housing funds) that supports the basic educational program of the school district and therefore if lost must be replaced by increasing local property taxes or reducing programs. Few school districts have any other options.

   a. The property tax is regressive and particularly hard on fixed income and poor families.

   b. Local tax increases are often controlled by some type of public vote. Local tax payers are balking at the cost of real estate tax supported services they now receive, and certainly cannot be expected to willingly vote to assume the expense of providing those services to others, such as the federal government and its employees, who are not paying their fair share.

   c. Reducing educational programs usually means reducing staff expenditure since over eighty percent of educational expense is for personnel.

2. Impact Aid is paid only for students in attendance in the school system who are receiving educational service. If the non-taxpaying property has no residents or work force, then the school district receives nothing regardless of the value of the property. Payment is made only for services actually rendered, not on some hypothetical "in lieu of tax basis".

3. The average American school district derives about half of its operating revenues from the local property tax. Of this local property tax, less than one half comes from residential property, and slightly more than half of the local property taxes come from places of employment - commercial and industrial property.

4. The actual amount of the Impact Aid payment that is received by a local school district for each child is calculated to approximate the portion of the cost of that child's education that is lost to the school because of the child's relationship to tax exempt federal property.

For the category B child, who either lives on federal property or resides with a parent who works on federal property, about half of the local property taxes that would be available for the child's education are not available to the school district. In the case of the category A child, who both lives on federal land and has a parent working on federal land, there are no local property taxes available for that child's education.

5. Over the past few years actual payments received by districts have fallen significantly short of the 50% of current cost for A children (representing the local share of that child's educational costs), and 25% of cost for B children (representing one half of the local share).

As an example, in San Diego where in 1976 local taxpayers paid about $725.00 (or 55% of the total cost) for each child's education, the average payment for each category A child was only $602.00, or 50% of the total cost, leaving an extra $123.00 per A child burden on the local taxpayer - a total of $870.000.00. Furthermore, the average category B payment was not $360.00, or half of the local tax burden per child, but only $191.00, closer to one quarter of the local tax burden, leaving $170.00 per B child to be paid by other local taxpayers - an additional $3,430,000.00. This adds up to nearly $4,500,000.00 a year that is being absorbed by the taxpayers of San Diego to pay for the education of the children of federal employees, in addition to the taxes paid by these federal employees on their own homes.

6. Federal activity is not evenly spread across the nation, but has been concentrated in some communities for reasons that have given no consideration to the financial ability of the local schools to absorb the children of the federal employees and provide an adequate level of education.

7. Impact Aid is directly related to federal activity. If federal activities and numbers of employees are reduced then Impact Aid will be reduced. There is no need to phase out Impact Aid if the federal government returns to the military status and degree of involvement in social programs that existed before World War II.

8. The Impact Aid program is a very low cost program to administer both at the federal and local levels. Very little money is spent on maintaining a bureaucracy in Washington or the school districts. The General Accounting Office has recently completed a report on the administration of Impact Aid. I have included, as an addendum to my comments, an analysis of that report prepared by Mr. Jack Thomas (formerly Maintenance and Operations Chief of the division of School Assistance in Federally Affected Areas, U.S.O.E.). Mr. Thomas will be available this morning to answer any questions the Committee may have with respect to that report, or the administration of the Impact Aid program.

The School Assistance in Federally Affected Areas office has traditionally been highly respected for both the competence and dedication of its staff. Recently the changes in the law and the failure to fill authorized positions have hampered effective operation of the program. It is a tribute to the staff and an indication of the legislative quality of the basic law that the twenty-nine separate laws amending Impact Aid have been successfully incorporated and the program has continued to function.

Last week, the Chairman and other members of the Committee wisely requested a study of Impact Aid because of the continuing controversy about the program. We strongly agree that complete information objectively gathered and analyzed is required before new legislation is drafted. However, we are concerned that the perspective of the analyst be objective and that the data be complete. For some reason we do not have great confidence that a study made by a Washington bureaucracy will have the sensitivity to local conditions that is required. Regretfully, we have reached the conclusion that the Office of Management and Budget and the Department of Health, Education, and Welfare are not disinterested parties. To this point in time they have not displayed the knowledge of the law, the operation of the program, local school conditions, or school finance that is required for an effective study. Furthermore, they have made and announced plans to eliminate Impact Aid, before even beginning the study they have promised the Chairman of this Committee. Therefore, we want to request that Impact Aid school districts be directly involved in the design and supervision of a study, done by an independent group.

We propose to supply this Committee with a list of the questions and issues that arise during the course of these hearings, plus other issues that we feel should be included in any comprehensive study of Impact Aid. We hope that with such a list, the Committee will be able to select those questions that are of importance to the Committee in its consideration of Impact Aid, and ensure that those issues are covered by the study.

FEDERAL IMPACT AID IN SAN DIEGO CITY SCHOOLS

Impact aid has been established by the U.S. Government to provide continuing assistance to local school districts for the burden imposed by tax exemption of federal real property and the presence of eligible, federally connected children. Therefore, the impact aid laws provide assistance to districts on the basis of the number of federally connected children receiving educational services. In San Diego last year, the number of children and the payments appropriated were:

District Totals - 1975-76	Average Daily Attendance	General Fund Revenue as of June 30, 1976
District Totals	125,764	$173,612,292.
Category "A" - Students living on and with parents working on federal property	6,947	$4,184,984.
Category "B" - Students whose parents work on federal property	20,185	3,867,993.
Actual payment received during 1975-76 was $5,193,304.		$8,052,977.

Analysis of 1975-76 Impact Aid Effects in San Diego

1. The burden of 26,366 eligible children represented 21.57 percent of the total of 122,223 pupils enrolled in K-12.

2. In San Diego, Category "A" average payment per student for 1975-76 was $602.42 while the current cost of education was $1,301.47 per student per year. The state provided $446.30, meaning that local resources had to provide $252.75 per student from families which paid no property tax from either home or "business." Category "B" average payment per student for 1975-76 was $191.62 while the current cost of education remained the same at $1,301.47. The state provided the same $446.30, meaning the local resources had to provide $663.55 per student from those families paying only home property taxes. This $191.62 per Category "B" student does not approach reimbursing the district for loss of taxable property, nor come near covering the cost of education.

3. To replace 1975-76 impact aid anticipated income would have taken an addition of 37.5 cents in the 1975-76 tax rate. Under current State finance law (S.B. 90), an increase in tax rate to replace PL 874 funds is not allowed for our district except by a voted tax override.

4. For fiscal year 1975-76, local income amounts to 55.58%, State income was 28.98%, beginning balance was 5.09%, and total Federal income was 10.35%.

5. In October 1976 it is estimated that 15 military installations in the San Diego Unified School District have a land market value of over $945,379,147. In San Diego County, 54% of the land is federally owned.

6. Category "B" per ADA payment is authorized at approximately 50% or less of Category "A" since Category "B" students live in taxpaying property while their parents' work "place of business" is tax exempt. (In California, 52% of local property taxes are on non-residential property.) Category "B" payment at an average of 60% means that the school district recovers only half of the property tax loss from federal property. Thus the local district is already absorbing a heavy portion of the burden for providing educational services to children whose parents work and/or live on federal tax exempt property.

AN ANALYSIS AND REVIEW
OF THE REPORT TO THE HOUSE COMMITTEE
ON EDUCATION AND LABOR
"ASSESSMENT OF THE IMPACT AID PROGRAM"--
DATED OCTOBER 15, 1976

Prepared for

IMPACTED AREA SCHOOLS

148 Duddington Place, SE

Washington, DC 20003

Prepared by
Jack Thomas
Educational Consultant
4303 Ann Fitz Hugh Drive
Annandale, VA 22003

June 20, 1977

4303 Ann Fitz Hugh Drive
Annandale, VA 22003
June 20, 1977

Dr. Davis Fish, President
Impacted Area Schools
148 Duddington Place, SE
Washington, DC 20003

Dear Dr. Fish:

This is the analysis and review of the GAO report, "Assessment of the Impact Aid Program" dated October 15, 1976, which you asked that I complete for the Impacted Area Schools.

The GAO report contains six points in the Digest on which USOE was requested to take action. In addition to these six points, several other significant items of the report were treated in this analysis.

This report includes revisions to the draft report submitted to you on March 3, 1977. These revisions were reviewed, discussed and agreed upon at the Impact Area Schools conference held in Washington on May 23 and 24.

I sincerely hope this report will be helpful to the Impacted Area Schools members in interpreting and understanding the GAO report.

Sincerely,

Jack Thomas

Jack Thomas
Educational Consultant

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SYNOPSIS

It is evident from the findings in this report that the Impact Aid staff (both regional and headquarters) needs to be increased to adequately respond to portions of the GAO report. GAO did not recommend additional staff to administer the program due to the small percent of the amount overclaimed. However, they did strongly recommend several items that would require more staff for compliance. The report recommended that USOE (1) require more adequate documentation of child's residence with civilian parent, (2) establish weights to be given the criteria used in selecting comparable districts and examine the procedures for computing rates, (3) review more thoroughly rate data submitted by States, and (4) review State-aid allocation formulas more closely to insure compliance with the supplant provision of the Act. Such additional staff would permit USOE to properly respond to these recommendations and continue to maintain the small percent of error which could increase significantly under the present conditions.

In their response to GAO, USOE had agreed to develop an "employed on" concept, examine and review the methods used in computing rates, and issue instructions reinforcing the need for compliance with the requirement that the child reside with civilian parent.

Based on the statutory language and the legislative history, the present concept for determining eligibility of "uniformed services" category children should continue.

The computation of ADA figures was found to be a common cause of error. It has been suggested that the law be amended to allow USOE to develop a common procedure for computing State and local ADA and revise the method for computing the Federally connected ADA or compute payment on Federally connected membership.

Duplicate payments received by LEA's for the same Federal property is not a significant amount in proportion to the program's total appropriation. Therefore, it has been recommended that no action be taken on this matter.

The impacted LEA's have a greater need for Impact Aid assistance than non-impacted LEA's. This is supported by the facts presented in the GAO report which indicates that most impacted LEA's are larger (which have higher operating costs and a greater demand for services) than non-impacted LEA's and the assessed valuation per pupil (financial resources) in most impacted LEA's is less than it is in non-impacted LEA's.

Until final regulations governing section 5(d) of the Act has been approved, no final determinations concerning the supplanting of State funds with Impact Aid funds can be made.

The impact of a Federally connected child of a civilian parent employed on a Federal property located out of State or the LEA is just as great as the impact of the "uniformed services" category child.

To avoid discriminating against LEA's in States which had equilization plans financed by State revenues, the Congress amended the Act to establish a minimum rate of one-half the State or national average per pupil cost--which ever was greater. According to the GAO report, the minimum rate provision appears to be achieving its purpose.

I. INTRODUCTION

On October 15, 1976, the Comptroller General of the United States, hereinafter referred to as the General Accounting Office (GAO), published a report entitled "Assessment of the Impact Aid Program." The topics covered in this report were reviewed at the request of 14 members of the House Committee on Education and Labor and 2 other Congressmen.

It is the purpose of this report to analyze and review the following selected topics which were presented in the GAO report: (1) validity of Impact Aid claims under sections 2, 3(a), and 3(b) of Public Law (PL) 81-874; (2) payments received by local education agencies (LEA's) under Impact Aid and other sources for the same Federal property; (3) the use of Impact Aid funds by States to supplant State funds; (4) the methods, procedures, and regulations used by the United States Office of Education (USOE) to compute payment rates; (5) economic impact of federally connected children on LEA's; (6) the effect of Impact Aid payments on one State's equalization plan; (7) payments made to LEA's based on Federal property located outside the county of the State in which the LEA is located; and (8) comparison of payment rates to the LEA's per pupil cost.

The above topics will be analyzed and reviewed with regard to possible program changes, either legislative or administrative.

Data used in this report to rebut or substantiate the above topics have been collected through personal interviews, library research, legislative histories, statutes, and the Congressional Record. In addition, the author has relied on 15 years of personal experience (10 years in the field and 5 years in headquarters) in the Impact Aid Program.

II. VALIDITY OF IMPACT AID CLAIMS

The GAO selected 100 Fiscal Year (FY) 1973 applications to review at the LEA level. The applications were selected primarily to test the accuracy and validity of claims made by LEA's and to determine the manner in which the USOE administered the program.

The 100 LEA's reviewed by GAO to determine the validity of claims were not scientifically selected. These LEA's were judgmentally selected based on (1) the number of eligible children in the LEA, (2) the percent of LEA's which had received total payments, (3) the percent of eligible children to total number of children in the LEA, and (4) a reasonable geographic distribution of the LEA's. All of the LEA's selected were applicants under sections 2, 3(a) and 3(b) of PL 81-874 and were selected from 17 different States.

In their review of the 100 LEA's, GAO found that 93 of them made errors in their claims. The amount overclaimed by the 100 LEA's was $578,224 or .93 of 1 percent of the total amount claimed by the LEA's reviewed. This amount of overclaim was further reduced to $212,133 or .34 of 1 percent by USOE administrative reviews which were conducted prior to the GAO review. The amount of error was not considered significant by GAO and was not given further attention in their comments or recommendations.

Additional research shows that the field staff for the program has been reduced from 45 in 1967 to 24 members currently. Prior to 1967, each application was reviewed. Due to a limited staff, an application currently is scheduled for review every three years. This schedule has not been met for several years due to the limited regional staff assigned to perform this function and the assignment of other duties to this staff by regional USOE officials.

A. Pupil Eligibility

The GAO found three areas of concern in the review of data substantiating children's Federal connection. The claiming of children who did not reside with a Federally connected civilian parent was one concern and one of the more common errors found when reviewing the data. The change in the regulation by USOE which no longer required that the military parent and child reside together was a second concern. The third area of concern was the counting of children for entitlement whose parents were working on Federal property part-time or temporarily.

Children Claimed for Civilian Parent

In their review, GAO found that a considerable number of applicant LEA's did not properly document the child's residence with the Federally connected parent. It was recommended that USOE require adequate documentation of the residence requirement.

The Division of School Assistance in Federally Affected Areas (DSAFA), the group charged with the administration of the Impact Aid Program, does not have the manpower resources to comply with this recommendation.

At the time of the review, the GAO staff was aware of the manpower limitations, but did not recommend more staff to correct the situation. This point was discussed with GAO officials who stated that a recommendation for more staff was considered, but was not made because the percent of error was so small compared to other USOE programs.

Children Claimed for Military Parent

Sections 3(a) and 3(b) of PL 81-874 contain the following enabling clause for federally connected children: ". . . or had a parent who was on active duty in the uniformed services . . . ."

Prior to May 1975, the USOE interpretation of sections 3(a) and 3(b) required that the child reside in the parent's household. Since the statutory language does not require that the child reside with the parent, eligibility is now determined through parental relationship which does not require co-residence of the child with the parent on active duty.

GAO, in their report, takes the position that the legislative history of the Act suggests that to be eligible the child should be a dependent of the uniformed services parent. In their comments to the GAO, USOE states that "No requirement of dependency is expressed in the statute . . . ." GAO takes exception to this position and recommends that adequate documentation of dependency be required to determine the child's eligibility for a uniformed services parent.

PL 83-11 modified PL 81-874 to count children whose parents were employed outside the State in which the applicant school district was located if the property on which the parent was employed was within reasonable commuting distance of the applicant district. This modification applied only to parents employed by the Department of Defense, but excluded parents residing in the District of Columbia who commuted to Virginia and Maryland.

Pl 83-248 removed the PL 83-11 modification and amended section 3(a) of PL 81-874 to include the phrase "or (2) had a parent who was on active duty in the uniformed services."

Since the child could be counted under section 3(a) for a military parent whether or not the parent was stationed on Federal property in the same State or within commuting distance of the school district if the property was located within another State, a similar provision to section 3(b) was added by PL 84-382. Under this amendment, according to House Report 2357, 84th Congress, the child continued to be eligible providing the parent's residence in the community commenced when he or she was assigned to employment on Federal property in or near the applicant school district and when the parent continued on active duty with the Armed Forces while assigned overseas or elsewhere.

The eligibility of the "armed forces" category child was difficult to establish and created administrative problems. As a result, section 3(b) of PL 81-874 was amended by PL 89-750 to remove the "armed forces" category and add the "uniformed services" category. The following is an excerpt from the House Report 1814, 89th Congress, which discusses this change:

> "We recommend that both PL 815 and 874 be amended to permit the counting of a child in the school district where such child resides when a parent is on active duty in the military service regardless of where the parent is stationed. This is in keeping with the general relaxation of eligibility requirements to further insure that the Federal payment, when added to the tax contribution of Federally connected families, more nearly equals the contribution of non-federal families.
>
> "Under current law in order for a child not residing on Federal property to be counted as Federally connected, he or she must reside with a parent employed on Federal property which is located in the same State as the school he or she attends or within reasonable commuting distance. In some cases, the father of military dependent is stationed at a base at some distance from the place where the dependent resides; the child cannot be counted as Federally connected unless the parent's employment is within commuting distance of the child's residence. In other cases problems arise because the father is aboard ship and not on Federal land.
>
> "This amendment would resolve an avoidable inequity and greatly simplify the administration of the program, both for the Office of Education and for the applicant local school districts. Under this concept, the necessity for inquiry as to the type of living arrangements--the Federal or private status of the property at which Federally owned ships are headquartered, and whether or not the 'armed forces elsewhere' provision was operative in given situations--would all be eliminated."

Temporary Employment on Federal Property

In the case of the non-military parent, the law requires that the parent must be employed on Federal property. The interpretation of the term "employed on" has been the subject of numerous legal opinions and many discussions within USOE. The term also has been used synonymously with the term "working on." In their report, GAO states that they believe that there is a difference in the meaning of the two terms. And GAO appears to associate the term "working on" with the amount of time spent by a person on a job at a specific location. The report also infers that to be eligible, the child should reside with a parent employed by an employer who has a station or base of operation located on the Federal property. According to GAO, this concept appears to be more consistent with the intent of the law.

On page 10 of the report, GAO cited two instances where LEA's encouraged the claiming of children whose parents may have been working on Federal property only on the day of the pupil-parent survey. In one instance, instructions were given to teachers that children of a Coca-Cola route salesman should be counted if his route on the survey date passed through Federal property. In the other instance, the report stated that a memorandum had been sent to a music teacher suggesting that he arrange his schedule so that he would be working at the school located on Federal property on the survey date; hence, his children could be claimed for Impact Aid. Both of these situations were reviewed by USOE regional program officers.

In the case of the Coca-Cola parent, the school officials were contacted. They confirmed that the statement was in their instructions and had been included in them since October 1971. However, assurance was given that the statement would be deleted from instructions for future surveys. A cursory review was made of the pupil records by the program officer and no ineligible pupils of the type discussed were found.

The officials of the LEA which involved the music teacher incident also were contacted. The officials contacted could not find the memorandum or its source suggesting that the parent arrange his schedule in order that his children be eligible under PL 81-874. The program officer advised LEA officials of the regular employment concept, i.e., for a pupil to be eligible, the parent must be employed for a major portion of his/her time on Federal property and that if a person happened to be on Federal property on the count date (not regularly employed on) they should not be included in the claim. The pupil records for FY 1973 were reviewed by the USOE official and no records were found for the children of the music teacher. The records for FY 1974 and FY 1975 also were reviewed and some children were claimed for a school employee (janitor-bus driver) who did spend substantially all his working time on the Federal property claimed.

B. Computation of ADA

The computation of State, LEA, and Federally connected ADA were other frequent errors found during the GAO review of the 100 LEA's. These figures are interdependent on each other and they affect the rate of payment as well as the number of children for which payment is made.

Computation of State ADA

PL 81-874 provides that ADA shall be determined in accordance with State law, except that Federally connected ADA shall be determined by USOE regulation. In addition, LEA's must adjust their total ADA for tuition pupils.

The methods used by States to compute attendance figures for allocating State funds varies from State to State. Some States allocate funds based on membership figures taken one or two days during the year, while others use an average daily membership figure. Still others use different methods for computing ADA.

Computation of LEA ADA

GAO found that many LEA's did not make the necessary adjustment for tuition children in the total ADA reported. In other instances it was found that the basis for total ADA reported to USOE could not be reconciled with the total ADA reported to the State. They also found that the basis for computing ADA varied from State to State.

Approximately 35 percent of the LEA's reviewed encountered difficulty in reporting a correct total ADA.

The GAO report points out that USOE representatives corrected most of the errors prior to the GAO review.

Federally Connected ADA

The following formula is used to compute Federally connected ADA:

$$\frac{\text{Total adjusted LEA ADA}}{\text{Total adjusted LEA membership on the pupil-parent survey date}} \times \text{Federally connected membership on the pupil-parent survey date} = \text{Federally connected ADA}$$

It is evident from the formula that any change in the total LEA ADA or membership would directly affect the Federally connected ADA and the amount of payment.

As a result of this situation, GAO recommended that the methods used to compute Federally connected ADA be simplified. They suggest that a national ratio of total ADA to total membership (enrollment) be developed. The Federally connected membership could then be multiplied by the national ratio. This method would provide a common basis among States for computing the Federally connected ADA.

It is interesting to note that GAO in their February 1957 report on Impact Aid also recommended that the method for computing Federally connected ADA be simplified. The current method is an outgrowth of that recommendation. The current recommendation is to further simplify the method.

USOE in their response of July 23, 1976, suggested another alternative to the problem--compute payments on the Federally connected membership. This alternative would simplify the procedure to an even greater extent.

III. DUPLICATE PAYMENTS RECEIVED BY LEA's

The initial Act contained section 3(e) which required that revenues received by an LEA for a Federal property be deducted from its entitlement. These deductions included the value of any transportation for custodial services provided to an LEA by the Federal Government.

Many school districts in States which have vast areas of Federal lands within their boundaries--Indian reservations, national forest lands, and public domain land--received revenues from taxes from privately owned improvements located on such lands--national forest payments, Taylor Grazing Act payments, Migratory Bird and Wildlife Act payments, and payments in lieu of taxes.

In 1953, PL 83-248 amended section 3(e) to limit the deductions of revenues received for national forests, Taylor grazing lands, and the Migratory Bird and Wildlife Act to the extent claimed against the property for which such payments were made. The remaining revenues from taxes for privately owned improvements located on Federal lands, payments in lieu of taxes, mineral leases, and the value of transportation and custodial services were deducted in the amount received.

PL 89-750 amended PL 81-874 to limit deductions to a minimum of $1, 000. The $1, 000 minimum was imposed as a matter of administrative efficiency and convenience. Determination of smaller amounts would incur excessive administrative costs.

PL 81-874 was further amended in 1968 by PL 90-247 which deleted section 3(e) entirely.

According to the GAO report, approximately $5 million was deducted under section 3(e) in FY 1967. This was approximately 1. 2 percent of the total entitlements for the same year.

IV. IMPACT AID FUNDS USED TO SUPPLANT STATE FUNDS

In their review, GAO found two States that may have been in violation of section 5(d) of the Act. As a result of this finding, they suggested that closer review of State aid allocation formulas should be emphasized.

Section 5(d) of the Act was one of the areas in which particular difficulty was experienced in FY 1973 and FY 1974. In-depth studies of each State's school finance formulas and procedures should have been made at the regional and Washington levels to adequately administer this section of the Act. A decrease in the DSAFA staff from approximately 100 persons in FY 1966 to approximately 50 staff members in FY 1977 made it impossible to properly analyze the various State's formulas and procedures.

In FY 1975, an act was passed which made it possible to make payments to LEA's in States which were in violation of section 5(d) providing such States had passed an equalization law.

PL 94-482, then, amended the section by delaying its implementation until FY 1978.

Interim final regulations establishing criteria for section 5(d) have been published. Also regional staff have been instructed to review State financial data in accordance with the interim final regulations and report no later than June 30, 1977.

V. COMPUTATIONS OF PAYMENT RATES

In their report, GAO makes four observations concerning rates. They are: (1) data submitted by States to establish rates have not been reviewed in recent years to determine if the source of funds have been reported under the appropriate category, (2) neither regulations nor instructions that weight or attach importance to the 12 criteria used to establish rates have been developed, (3) the instructions concerning the 12 criteria and the data collected on the application form do not correspond, and (4) procedures do not allow for the influence of Impact Aid funds when LEA's receiving such funds must be used as comparable districts in computing rates.

The DSAFA staff has been reduced by more than 50 percent of its strength since FY 1966. This reduction plus the limited regional staff has made it impossible to properly review and analyze all of the rate data submitted by States.

USOE officials have indicated that the procedures and their application for approving Federal payments based on comparable LEA data are being examined. On the basis of this examination, appropriate modifications will be made and will be published in instructions to States and LEA's for FY 1978. This examination should address the last three observations listed in the above paragraph.

VI. ECONOMIC IMPACT OF FEDERALLY CONNECTED CHILDREN ON LEA's

Many studies of the Impact Aid Program have been conducted. These studies usually include a section on the economic impact or burden imposed on LEA's by Federally connected children. A number of concepts or alternatives to measure the Federal impact have been developed. However, no concept has been developed which would compensate for the differences in the characteristics of the many existing situations which would be acceptable to the many different interested groups.

In order to respond to the Congressional request for analysis of the economic impact of Federally connected children on LEA's, GAO conducted a statistical analysis on data from 1,671 LEA's in 16 States for FY 1973. One analysis was made to determine the effect of tax increases relative to decrease in Impact Aid funds. Another analysis was conducted to determine the effects of alternate eligibility requirements on the total cost of the program. The relationship of Federally connected children to LEA's financial resources was the third analysis.

A. Tax Increases Related to Impact Aid Decreases

During FY 1973, the year of application which GAO used in their report, PL 81-874 contained a provision which permitted an LEA to phase out of the program. (This provision was changed in the current law by PL 93-380.) The first year the LEA did not meet the three percent eligibility requirement, it was eligible to receive full entitlement for the number of children claimed. The second succeeding year the three percent eligibility requirement was not met, the LEA was entitled to receive 50 percent of total entitlement for the number of children claimed.

The data used by GAO to conduct the analyses of tax increases related to the decreases in Impact Aid included 242 LEA's which did not meet the three percent eligibility requirement.

B. Alternate Eligibility Requirements and Their Effects on the Total Cost of the Program

The provisions of PL 81-874 were changed considerably by PL 93-380. These changes were effective for FY 1975. Hence, the reductions based on the alternatives enumerated in the GAO report are no longer applicable.

C. The Relationship of Federally Connected Children to LEA's Financial Resources

One of the basic concepts of PL81-874 is that the Federal Government will pay its just share of maintenance and operation costs borne from local taxation to an LEA for the education of children who reside on and/or reside with a parent on active duty in the uniformed services. A major portion of local revenue for LEA's in 47 States is derived by levying taxes on the assessed valuation of property in the LEA. In the remaining three States, a major source of local revenue for school support is obtained from income taxes, sales taxes, surtaxes, excise taxes, and other miscellaneous receipts.

The ability of an LEA to provide educational services financed from local sources is directly related to the number of children who are provided such services, the assessed valuation of property subject to taxation for school purposes, and the level of educational services provided.

According to the GAO report, the non-impacted LEA's in approximately 64 percent of the States analyzed had a greater assessed valuation per pupil than the impacted LEA's. The report also emphasized that impacted LEA's had a larger tax rate in five of the seven States selected than did the non-impacted LEA's in the same States.

Another interesting fact confirmed in the report is that mostly large LEA's are impacted. LEA's serving urban and suburban areas typically have higher operating costs due to higher living costs and a greater demand for more educational services than rural areas. These two factors, in addition to the lower assessed valuation per child, account in part for the higher tax rates levied by impacted LEA's.

D. The Effect of Impact Aid Payments on One State's Equalization Plan

Under the interim regulations of section 5(d) of PL 81-874 (the section which permits States to consider PL 81-874 payments as local resource funds), a State must have a qualifying equalization program for LEA's. If the program qualifies, a State may consider as local sources funds received under PL 81-874 only that which is in proportion to the share that local revenues covered under a State equalization program are of the total local revenues. Also consideration is given to the local leeway option (an option which allows an LEA to raise local funds in excess of that needed to qualify for State equalization aid) in the formula. None of these points were addressed in the case illustrated in the GAO report.

VII. FEDERAL PROPERTY LOCATED OUTSIDE COUNTY OR STATE OF LEA

The initial Act did not include children whose parents were employed on Federal property located outside the State in which the LEA was located. In 1953, PL 83-248 amended PL 81-874 to make children eligible whose parents were employed on a Federal property located in another State, if such property was within reasonable commuting distance of the LEA claiming the child. The rationale for this change was that an imaginary State line did not lessen the LEA's cost of educating the Federally connected child or decrease the Federal Government's responsibility to relieve the financial burden on the local taxpayer.

Senate Report 763, 93rd Congress, takes a different position which states:

> "'b' category children who reside with a parent employed on Federal property located outside a school district . . . . represent minimal impact on the school district's tax base, since their parents' residence is subject to local taxation and the Federal property, since it is located outside the district, does not detract from the district's tax base.
>
> "'b' category children whose parents were employed on Federal property located in another State would not be entitled to payments. Their presence in a school district makes no Federal impact since their parents pay State and local taxes related to the residence and no Federal property to which such children are related is present within the district or the State to affect adversely the district's tax base."

This rationale was used to reduce the rate of payment for the various sub-categories of "b" children under PL 93-380. However, the rate of payment for the uniformed services category child (regardless of where the parent may be assigned) was not reduced. This rationale is inconsistent since it costs as much to educate a child of a civilian parent (regardless where employed) as it does to educate a child of a military parent.

A basic concept for computing the rate of payment was based on the premise that an LEA was entitled to a tax base behind each child. This base is to consist of industrial, commercial, and residential property. When the child neither lived nor the parent worked on taxable property, the LEA was entitled to the full rate; but when either, but not both situations prevailed, the LEA received only 50 percent of the rate of payment. The "b" children whose parents were employed on a Federal property located outside the LEA has been justified on the premise that such children increased the educational load on the LEA even though it did not directly affect its tax base.

VIII. PAYMENT RATES COMPARED TO LEA's PER PUPIL COST

The following statement was made by Congressman McConnell, Pennsylvania, and recorded in the Congressional Record of July 14, 1953:

> "The Federal responsibility to which PL 874 is addressed will continue for as long as the Federal Government continues to own and use large areas of tax-exempt property and to impose substantial burdens on school districts in the form of reductions in their tax base or increase in their educational load or both.
>
> "PL 874 had as its base principle the concept that the Federal Government would compensate a local school district for the burden imposed on such district by the Federal Government and would pay its just share of the maintenance and operation costs borne from local taxation. To carry out this principle, it provided that the amount of payment to any local school agency for children who lived on Federal property, or with a parent employed on Federal property, or both, was determined by reference to the rate of expenditure for school purposes from local tax revenues to comparable communities in the State. In the administration of the law to date, it has been learned that this concept is sound where the bulk of the funds are obtained by local taxation. However, this committee had recorded extensive testimony showing that in those States where the State has adopted a plan financed by State revenues for equalizing educational opportunities in the less wealthy communities in which there is a higher per capita income, the local contribution rate remains low with the result that the Federal payment under PL 81-874 is low. Thus local school agencies in States where the most has been done to raise standards of education by the use of a financing system based on State-wide tax levies find themselves at a great disadvantage under 874 in their effort to meet school needs caused by Federal activities.
>
> "To partially rectify this situation, the bill (House Resolution 6078, 83rd Congress) contains a provision establishing a floor to be used as the minimum rate per child to be used in the computation of the Federal payment."

The minimum rates established by PL 83-248 was one-half the State per pupil cost for the second preceding year.

PL 84-382 amended PL 81-874 to establish an additional minimum rate for one-half the national average per pupil contribution rate not to exceed the State per pupil cost. To avoid the escalator affect of this amendment, PL 81-874 was again amended by PL 85-620 which established the present minimum rate of the greater of one-half the State per pupil cost or one-half the national per pupil cost.

According to the data in the GAO report, the minimum rate provision appears to be achieving the purpose for which it was passed.

IX. CONCLUSIONS AND RECOMMENDATIONS

Conclusion: Inasmuch as the applications which GAO reviewed were judgmentally and not scientifically selected, the reader should not use the data generated from this report to develop generalizations about the Impact Aid Program. In fact, the GAO report contains the following statement on page five: "The findings apply ~~only to the~~ LEA's studied and results cannot be used to draw overall conclusions about the SAFA program."

Recommendation: None

Conclusion: In order to limit and/or reduce the percent of error on applications, and in order for school districts to adequately comply with all of the numerous and complex regulations and instructions imposed by the various Federal programs, adequate administrative review and adequate methods of disseminating information must be effected. This can best be accomplished through a well-informed field staff.

Recommendation: That adequate regional staff be assigned to provide the necessary services to applicant LEA's under the Impact Aid Program, and that USOE, on a continuing basis, provide this staff with up-to-date policy and procedural guidelines.

Conclusion: The interpretation used by USOE to determine the eligibility of the "uniformed services" category child appears to be consistent with the statute and the legislative history. In fact, the excerpt from the House Report 1814, 89th Congress, encouraged simplification of the administration of the program. A requirement that dependency be established for uniformed services eligibility would complicate procedures and would be an invasion of privacy.

Recommendation: That the current USOE interpretation for determining eligibility of "uniformed services" category children be continued.

Conclusion: The concept of "employed on" Federal property needs to be more clearly defined. Such a clarification should avoid future incidents similar to those of the Coca-Cola route salesman and the music teacher.

Recommendation: That an administrative policy be developed to provide assurance and documentation that children of parents temporarily employed on Federal property are not claimed for entitlement.

Conclusion: The non-uniformity in computing State ADA creates inequities in the computation of the minimum rates--currently based on one-half the State or one-half the national per pupil cost, whichever is greater.

Recommendation: The methods and procedures used by each State for computing ADA should be carefully reviewed. Administrative procedures should then be developed to compute ADA for all States on a common basis. Such an administrative procedure would require a legislative change in the law.

Conclusion: A substantial number of LEA's experienced difficulty in computing a correct total ADA.

Recommendation: That the procedure for computing the Federally connected ADA as recommended in the following item be initiated. This procedure should solve the problems associated with the computation of the LEA ADA.

Conclusion: The method used to compute the Federally connected ADA needs to be simplified.

Recommendation: That either a national ratio of ADA to membership be developed to be used in computing the Federally connected ADA or that payment be computed on the Federally connected membership.

Conclusion: Duplicate payments are not considered significant when compared to the total program.

Recommendation: That no change be made relating to duplicate payments.

Conclusion: Limited staff in both the regional office and at the headquarters of the USOE has made it very difficult to properly administer all phases of the Impact Aid Program.

Recommendation: That program staff be increased sufficiently to properly administer the program.

Conclusion: That adequate staff has not been available to properly review and analyze all the rate data submitted by States.

Recommendation: That adequate staff be provided so that USOE can properly develop methods and procedures for establishing rates.

Conclusion: The inclusion of the LEA's which did not meet the three percent eligibility requirement would skew the final outcome. Hence, this fact should be carefully considered in the interpretation of this portion of the report.

Another consideration is that even though a number of LEA's would have to raise local taxes by a small percent, this percent is equally as important to the local taxpayer as it is to the Federal Government with whom the responsibility rests.

Recommendation: None

Conclusion: The portion of the GAO report that deals with alternate eligibility requirements and their effects on the total cost of the program does not apply to the current PL 81-874 as amended by PL 93-380.

Recommendation: None

Conclusion: Impacted LEA's appear to have a greater need for Impact Aid for two reasons: (1) the assessed valuation for Impact Aid LEA's is generally less than for non-impacted LEA s and (2) most impacted LEA's are located in urban areas where more services are demanded and operating costs are higher than in less populated areas.

Recommendation: None

Conclusion: The financial burden on the local taxpayer to educate the child whose parent works on a Federal property within commuting distance in another State is no less a burden to educate than the child whose parent works on Federal property within the school district or the child whose parent is on active duty in the uniformed services.

Recommendation: In order to avoid reducing the level of education for all children, including the uniformed services category child, all of the "b" category children should be counted for 50 percent of the rate.

Conclusion: Based on the legislative history it clearly appears to be the intent of Congress to compute payments on a minimum rate. And according to the GAO report, it appears that the law is fulfilling the intent of Congress.

Recommendation: None

Dr. FISH. Thank you, sir. We will restrict ourselves to key points that we consider particularly important regarding impact aid. In addition to the members of the panel, Mr. Quie asked a question yesterday about the Section 4-E district. There is one in the country, and Mr. Wilcox, from Nebraska, is in the audience. We would like to be responsive to the questions of the committee.

I would like to say that we would ask a change in perspective in looking at impacted aid. Here in Washington many people forget this is a program that serves local schools and local school districts. We are concerned that in our communities many people do not understand this program as being controversial.

For their purposes, they see the property of the tax roll. They are aware of the children being in the schools, and the costs increased because of the effect of having so many children from federally connected families.

We would like to go further with that line of testimony, but we won't—just to mention that the GAO report based on the old law did show some very significant facts about impact aid, that it will increase the local property tax in many, many communities across the land, and the local property tax is probably the most regressive and the hardest to the lower income people of our communities.

Just a small fact—in San Diego, in the 1975 census, of the 251,000 heads of families, 43,000 were retired and had as their primary source of income their retirement payment. These people would have to assume the burden, these people would have to vote the tax increase that would be necessary if impact aid were lost.

Now, in regard to the program itself, I have a few points that I would like to mention.

Impact aid is general aid. It supports the basic educational program of the school district. If it is lost, most school systems are restricted to two basic options.

One, they can reduce programs. Remember that school district programs are expensive—programs are over 80 percent people, and the people that would lose their jobs in any reduction in funds are invariably the lowest paid, the most in need. They are usually the nontenure teacher or the classified employee.

Of course, we can also turn to CETA, maybe, and through another Federal program employ some of these back. But, we think that is a rather inefficient process.

Secondly, the other alternative would be to increase property taxes directly. In California the only method available to us is to go for a tax override election. We would have the unfortunate problem of holding a tax override election for the local community to assume a Federal tax burden. Somehow I do not believe that would be a very popular option.

Finally, many other states even have constitutional prohibitions. I believe that several of my colleagues will speak about that fact.

Secondly, impact aid is only paid for students who are attendants at the school system. We do not get paid for students we do not serve. This is very significant. If the nontaxpaying property does no work for us, there is no payment. This may seem rather ridiculous, but remember there are such things as military cemeteries.

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We have one occupying some of the choicest land in San Diego, and we have one student whose father is the maintenance man or gatekeeper at that site and lives on the property. That is the only income we receive for over 100 acres of valuable land.

The third point that we have is that the impact aid school districts derive generally about half of their revenues from the local property tax. Of this, less than one-half comes from residential property. More than that, the other part of it comes from commercial and industrial property. We cannot separate category A and B students, therefore. We see no distinction.

We also remind you that the payments for A students and B students generally are even greater than the discrepancy I mentioned. In San Deigo in 1975-76, we received $600 approximately per A student. Per B student we received $199. We do not get an equitable break on the B student.

Also, we have the factor that actual payments received by districts over the last several years are continuing to call back in regard to the costs of education and the loss of property tax. Also, we have the fact that the Federal Government's activity is not spread evenly across this country. The Federal Government does operate bigger facilities, major facilities, in some communities.

You just heard of Eglin Air Force Base, with half of a county in Florida. In San Diego, we point to 14 military installations within the city limits. This includes a naval air station, naval base, marine training center, major hospitals, and other facilities operated in San Diego.

In some of these facilities, actually commercial establishments serving the federally connected military dependents from the local community are operated on nontaxpaying property.

We have also heard that impact aid should be phased out. We appreciate this committee's openmindness and willingness to hear our story. We understand the necessary consideration for reauthorization of the legislation. But, we would say with regard to phasing out, the answer is very simple. If you want to phase out impact aid, cut down Federal activity.

Impact aid is a dependent activity. Impact aid student counts rise and fall as the Federal Government enters into new areas of activity and closes out old. Impact aid as a dependent activity, therefore, is very easy to control. We see it as a necessary commitment and corresponding responsibility. We do not see it as discretionary.

The final point that I would like to make is that impact aid is an extremely low cost program to administer. This probably is one of the reasons why we have so much difficulty in Washington. We do not have a large Federal bureaucracy here. We do not have a number of consultant fees to administer.

The people that come forward to speak for impact aid are from the districts. We have a local perspective. Impact aid is tied directly into our financial programs. It is not discretionary to us. It is basic. Therefore, as a low cost program to administer, we like it.

In my school district, with over 27,000 impact aid children, we have one accountant and a clerk assigned to the central office administration of the program. The monies spent in impact aid go into support of the basic education of the children.

Remember, of our expenditures overwhelmingly administrative costs are in the very low percentage point. So, most of this money we can say is in direct classroom support. Some day we would like to see the comparison with other areas of activity. We also realize this is part of the characteristic of being a general aid program.

In regard to the administrative aspect of the program, I would like to mention that the GAO report, which was quite a bit on the clerical aspects of the program and on the old law, does show, and the testimony yesterday did indicate, that there was no fraud in the program. It also indicated that the contested cards in the program were less than 1 percent.

We would say that the contested cards resulted when school districts operating by instruction from the Office of Education claimed cards that they were not absolutely sure of with the understanding that when the auditor came by from the regional office, each would be examined and they would be allowed or disallowed.

After this process was completed, the degree of contested cards dropped to one-third of 1 percent, or .34 of 1 percent, actually. We consider that an extremely good percentage. We would like to hold it up as a model for other programs to reach.

We consider impact maybe not an old program whose time has run out, but a program that has been successful, meets its needs, and should be looked at in the context of the future of educational funding. This may be a good place to go, a good direction to proceed.

In summation, we now understand that the Office of Education, the Department of HEW, is going to do yet another study of impact aid. We are concerned that programs, ideas, have been generated regarding our program, and we are quite concerned, as I indicated before, that this is so basic to our basic program support, and we have to make decisions and contractual relationships based on this.

We would like to ask the privilege of participating in this study. It is too vital for us to have this happen without us knowing what is going on. So, we would like to ask the committee if possibly this recommendation could be made.

Also, we would like to, from our vantage point of a local school district, or local school districts, to have an opportunity to submit some questions for study. We are very well aware that the results of studies are determined by the questions that are asked.

We would like to ask the questions, for example, that were raised by Mr. Heftel about the loss of property and tax revenues to federal activity, we would like to have an opportunity to bring up several other items that will emerge during the next two weeks.

Thank you very much.

Chairman **Perkins**. Thank you.

The next witness is Dr. Francis L. Paul, School Business Administrator, Ayer Public Schools, Ayer, Massachusetts.

Without objection, your statement will be inserted in the record.

STATEMENT OF FRANCIS L. PAUL, SCHOOL BUSINESS ADMINISTRATOR, AYER PUBLIC SCHOOLS

Mr. **Paul**. I am Francis L. Paul, School Business Administrator for the communities of Ayer, Shirley, Boxborough, and Fort Devens, Massachusetts, and I bring you the greetings of our school committees and of our Superintendent of Schools, Mr. R. Neville Markum, who joins with me today.

Public Law 874 came into being in 1950 as an act to provide financial assistance for local educational agencies in areas affected by Federal activities. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress declared it to be the policy of the United States to provide financial assistance (as set forth in the following sections of that title) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that one, the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or two, such agencies provide education for children residing on Federal property; or three, such agencies provide education for children whose parents are employed on Federal property; or four, there has been a sudden and substantial increase in school attendance as the result of Federal activities.

Such recognition, as a matter of philosophy, and the implementation of the Act, as a matter of law, have had significant effects on both Federal and local activities, including but not limited to:

(a) greater freedom by the Federal Government in addressing itself to specific agency needs at various geographical locations, for the efficient administration of government, unencumbered, as it would otherwise be, by employee (parent) concerns for the education of dependents;

(b) greater freedom by the uniformed services in programming the utilization of installations and personnel, particularly personnel transfers, for increased efficiency, mobility, and attack/defense/retaliation capability, unencumbered, as it might otherwise be, by personnel (parent) concerns for the education of dependents.

(c) action by local school distrticts in providing educational programs, personnel, facilities and financial resources to accommodate the needs of Federally connected dependents, which action in most cases was not without a local tax burden, however large or small.

Since its approval on September 30, 1950, Public Law 81-874 has been the vehicle for fulfilling Federal responsibility and providing educational services to millions of young Americans, starting with 500,000 students in the first year of implementation and servicing over two million students in fiscal year 1975.

The Act has been challenged by many Administrations. Congress, however, in its wisdom has prevailed. Public Law 874 has been researched, evaluated, and amended by each Congress since its inception. Not less than 44 modifications and amendments to the Act have caused its application to be ever responsive to the changing societal and educational needs of Federally connected student dependents.

The Act has been subjected to the test of scrutiny and the test of time. Its survival has reinforced the validity and integrity of its purpose.

The Act, and the rules and regulations for the application thereof, permits a reimbursement to school districts for local costs incurred by the district for the education of Federally connected dependents and translates into annual dollar entitlements for the support of such educational services, a reasonable equivalence of local tax revenue lost through the acquisition of local property by the Federal Government.

Local property taxes, as the major financial resource for the support of free public education, are levied against commercial as well as residential property. It has been determined on the basis of national studies that approximately 50 percent of all property tax revenue is generated from commercial/industrial properties and the remaining 50 percent is generated from residential properties.

The formula for the distribution for such reimbursements to school districts is predicated on a rate factor (dollar/child). Stated briefly, this formula classifies all federally connected students into two major categories:

One, those students who live on federal property and reside with a parent who works on federal property, (A students), and;

Two, those students who either live on Federal property or reside with a parent who works on federal property (B students).

In other words, the reimbursement rate for A students, since such reimbursement is compensation for lost property tax revenue, is composed of two factors:

(a1) equal to the loss of commercial/industrial property tax otherwise generated from the employer where the parent works and;

(a2) equal to the loss of residential property tax otherwise generated from the property where the parents reside.

It follows that the two elements of the A rate, i.e. a1 and a2, are nearly equal since the property tax revenue generated from commercial/industrial properties is approximately equal to that generated from residential properties.

Where this is no loss of residential property tax (a1) but only loss of employer commercial/industrial property tax revenue (a2), the reimbursement is approximately 50 percent of that for an A student and is called the B rate.

Such reimbursements to local school districts for providing educational services to Federally conected dependents are therefore exclusive of the average income or other mesured means of the affluence of the district; but rather represent the fulfillment of a responsibility for a real loss of real tax dollars generated from real property.

Contrary to the misleading and inaccurate claims by the antagonists of Public Law 874 that impact aid is designed to help the rich get richer, consider the plight of the Town of Shirley, Massachusetts, a typical small suburban community abutting a Federal installation.

The assessed valuation of all real property per school attending children in the Town of Shirley is approximately 25 percent below the average for the state, not an affluent community by any standards.

589.6 acres of land in Shirley was acquired by the Federal Government as part of the Fort Devens complex. This land, developed for commercial or residential use, would yield approximately $130,000 in real property tax revenue at current market valued; estimated at $65,000 commercial and $65,000 residential.

Approximately 160 students, or 19 percent of the total students enrolled in the local school system, are Federally connected dependents whose parents work on Fort Devens.

Annual reimbursement to the Shirley School District for the local cost of providing educational services to Federally connected dependents, in accordance with Public Law 874, amounts to approximately $25,000.

The net school tax rate for the Shirley School District (FY-77 equals $26.28/thousand dollars valuation) is approximately 60 percent higher than the average for all 145 communities in Massachusetts of similar population class (0 - 5000 residents).

Compensation of $25,000 for a loss of $65,000 in employer tax revenue (B student) can hardly be viewed as adequate.

The case for the Shirley, Massachusets School District not only challenges the 'rich get richer' philosophy, but reasonably describes what occurs in most small typical communities in the United States—the poor get poorer at an ever accelerating rate.

Basic changes to Public Law 874 should be to correct the inadequacies through increased appropriations and not increase deprivation through decreased appropriations.

They who would detract from the validity of the program by equating Federal rsponsibility inversely to local property values in a few atypical communities, not reflective of the average impact aid recipient district, compound the distortion by their omissions of all the revenue factors lost to districts servicing Federally connected students, i.e.:

lost is the resident state income tax revenue which proves state aid to local education, in those states where applicable, which loss has to be made up by increased local property taxes;

lost is the sales tax revenue when Federally connected parents, particularly uniformed service personnel living in the local community, do their shopping and purchasing at shopping centers located on Federal installations, which loss must be compensated for, at the local level by local property taxes;

lost are the jobs, and the purchasing power of the related income when local businesses close due to competition from shopping centers of Federal installations servicing military personnel living off post;

lost is the revenue to support public safety programs maintained at nearly 200 percent average cost due to vehicular and pedestrian traffic through town as a result of local Federal activities;

lost is the revenue to support highway and road improvement programs magnified exponentially by excessive deterioration due to vehicular traffic in and out of local Federal installations;

lost is the center of American suburban life—hometown main street—converted into empty blocks and a plywood jungle, the result of unbearable local commercial property taxes, levied and forced as a result of otherwise unsupported, required services;

lost are the free-booting days of World War II so reminiscent of many of us, when pay day or Friday night brought the young civilian soldiers and sailors into town for evenings of fun and spending, leaving all their money with the rich locals who became richer, and most of all;

lost is the integrity of the propositions of the antagonists to the Act when they blind themselves to, or willfully disregard the realities of the economic impact that Federal installations, of whatever nature, have on the majority of American communities.

Expiration of impact aid, by the Administration or by the Congress, by the single stroke of a pen or by the slow amputation of its vital appendages would place an unconscionable and unbearable local tax burden on the majority of the more than 4,000 eligible school districts.

Consider, for example, the plight of the Ayer School District providing educational services to Federally connected dependents from and/or associated with Fort Devens, Massachusetts. Ayer is a town of under 5,000 population, one of 145 such communities in Massachusetts out of a total of 351 cities and town in the Commonwealth.

Out of 379 school districts, including regional and vocational, the Ayer School District ranks 335th in net local tax revenue per school attending child. Yet, the school district tax rate for fiscal year 1975 was $25.92 per thousand dollars property valuation, nearly 100 percent higher than the average for all other communities of similar size.

The Ayer School District is not unique among the many small towns nationwide providing educational services to Federally connected dependents. What, then, happens to a town, any town, like Ayer, Massachusetts, so heavily taxed, so impacted, if impact aid is expired, in whole or in part?

To provide educational services for the near 2,000 students who live on Fort Devens, the near 300 students whose parents work on Fort Devens, 50 percent of whom are military personnel living off base, and the nearly 1,200 dependents of local residents, would require that the already excessive and inflated local property tax be tripled.

That the Ayer School District, or any district so impacted, could or would absorb such a tax levy is inconceivable.

One hears of alternatives that would make 'payments in lieu of taxes' to a state, county or municipal agency, but such is not a viable alternative since payments are not delivered to the point of service and may in fact never find their way to support educational services of any caliber.

It has been suggested that a Title I program for the educationally deprived, as a categorical program, would better fulfill the responsibility of the Federal Government for providing educational services to Federally connected dependents.

One might as well compare the appropriations for the Department of the Navy to the appropriations for the Department of the Interior, since both are related to activities about water, however large or small such bodies might be.

The real alternative to impact aid support for schools is a declining level of quality education. $10 million in lost impact aid to the various eligible communities in Massachusetts is equivalent to 1,200 teaching stations. $768 million in impact aid nationally is equivalent to 85,000 teaching stations and jobs.

I do not address you as one who would advocate all for the sake of education. That cry has long ceased to be economically feasible.

I do, however, address you as one who believes that the principles and foundations of our democratic society, even our Republic, are only as firm and solid as is the ability of our citizenry to practice civil responsibility and to participate as civil servants in the preservation and perpetration of our government.

Chairman **Perkins**. That is a good statement.

We will now hear from Mr. Charles Akins, Superintendent, Hardin County Public Schools, Elizabethtown, Kentucky.

Mr. Akins, I am delighted to welcome you here this morning. You are doing a good job in Kentucky. We want to hear what you have to say.

Without objection your prepared statement will be inserted in the record. Summarize it any way you want to.

[The statement of Mr. Akins follows:]

STATEMENT OF CHARLIE AKINS, SUPERINTENDENT, HARDIN COUNTY PUBLIC SCHOOLS, ELIZABETHTOWN, KENTUCKY

Mr. Chairman and members of the Committee, I am Charlie Akins, Superintendent of the Hardin County Schools, Elizabethtown, Kentucky. I am honored to appear before a Committee that has had unparalleled effect in bringing about needed reform and improvement in public education. I thank you for being allowed the opportunity to make this statement.

I have been associated with the Hardin County Schools in various capacities for the past 25 years, serving in the position of Superintendent for the last seven years. Throughout this period of service, I have also been closely associated with the nature of the federal impact situation in our area as a result of the military installation at Fort Knox, Kentucky. In my opinion, this situation, except for some changes in the numbers of students involved, basically remains the same as it did in 1952.

Each succeeding Congress since the 81st has analyzed impact aid and has determined that the circumstances prompting the establishment of this aid deserved and justified continued federal assistance. The wisdom and concern of the Congress over these years has helped the Hardin County Schools to survive and maintain a reasonable school program for the thousands of mobile, federally connected students who have moved through our school system over these many years.

For the sake of brevity, I do not wish to explore all the problems that are imposed on local school districts as a result of their close proximity to a large military installation. I do, however, wish to emphasize four areas that constitute continuing difficultues for such school systems. It is imperative to the very existence of school programs such as ours that these problems be addressed by some level of government other than the local school district. Since the pressures are placed on the local schools by federal activity, I believe it is logical for us to conclude that the federal government must concern itself with a solution to these difficulties for so long as the following conditions continue to exist.

In the Commonwealth of Kentucky, there is a most definite lack of realistic state equalization of financial resources per pupil. According to the latest figures available, the disparity ranges from the state high per pupil expenditure of $1,259 to a low of $430. Hardin County, with a per pupil expenditure of $762, is some $70 below the state average per pupil expenditure of $832. I admit that if Kentucky had true state equalization of educational funds, there would be no need for the existence of federal impact aid to the local educational agency. Although there is a move underway to initiate equalization in Kentucky, it will be many years before this is completely achieved.

In addition, local school districts in Kentucky depend heavily on local property taxes for a substantial portion of their total revenue per pupil. The average in the state of Kentucky shows that local revenue makes up 33.7 per cent of total receipts with state revenue supplying 51.6 per cent and federal revenue 14.7 per cent. Because of major diversities in the amount of assessment per child, this dependence on local property taxes perpetuates an uneven distribution of revenue per pupil across the state. The tendency of P. L. 874 3(B) catagory student population to dilute the local property tax assessment per pupil furthers and adds to this problem.

The situation in the Fort Knox area, because of the concentration of 3(B) students, is a good example of the local dilution of tax base. With the exception of the per cent of school population being federally connected, the school districts in our area share very common assets. The following table shows the assessments per pupil in the school districts surrounding Fort Knox and Hardin County.

SCHOOL DISTRICTS	TAX ASSESSMENT PER PUPIL
Nelson County	$48,317
Breckinridge County	43,787
Green County	40,728
Hart County	35,329
LaRue County	35,149
Taylor County	34,831
Meade County	34,461
Hardin County	34,060
Bullitt County	32,299

Because of the presence of industry and commercial development in the area of Elizabethtown in Hardin County that does not exist in such counties as Green and Breckinridge, I contend that our assessment per pupil, if it were not for impact, should exceed the assessments for both Green and Breckinridge counties. It is also significant that Meade County and Hardin County are the only districts with high percentages of federal impact pupils.

Because of the mobile nature of many of the federally connected families, I feel that their presence reduces the local property tax assessment per pupil in the following manner.

A. THE NATURE AND ASSESSMENT OF THE RESIDENTIAL HOUSING OCCUPIED BY SUBSTANTIAL NUMBERS OF THESE PEOPLE

Hardin County has the greatest number of mobile homes per capita of any county in Kentucky. We have 3,520 trailers located in 183 trailer parks. Some 85 per cent of these parks are located within a fifteen minute drive of the Fort Knox post. Over 1,000 additional mobile homes are located on lots and small farms, the majority of which are situated in the north end of the county adjacent to the military post. The tax assessor's office reports that slightly over 50 per cent of these mobile homes appear on the tax rolls. One of his major problems is the ownership of these mobile homes by military personnel. The Soldiers and Sailors Relief Act and Kentucky's classification of mobile homes as personal property allows military personnel to be exempt from the local property tax levy. In the event a mobile home is on the tax rolls, it would generate an average school tax payment of $18.88.

Federally connected families, because of the limited term of their expected stay in the district, tend to be renters rather than owners of residential property. The value of available rental property is substantially less than the average value of residential property occupied by the owner. These major factors concerning the housing of impact families continue to keep our revenue per pupil one of the very lowest in the nation at $762 for FY 76.

B. TOTAL LACK OF ASSESSMENT ON PROPERTY CONNECTED WITH THE POINT OF EMPLOYMENT

Several thousand residents of Hardin County work on post in government facilities worth millions of dollars but, because of government ownership, no local school tax is paid on the wealth at this point of employment. In a normal situation, close to 50 per cent of the school district's property tax revenue is derived from taxes on property connected with points of employment. On these people, our only major source of revenue is from taxation connected with their residence.

In the area adjacent to Fort Knox, where approximately 80 per cent of our impact population reside, we find commercial and service property development being dictated by commercial and service activities conducted on post. Businesses that one would expect to find in a normal city of 14,000 to 18,000 do not exist. In the Radcliff-Vine Grove area, medical facilities are practically absent, hardly any entertainment and recreational establishments exist, and an extremely small number of retail businesses are operating for a community this size. Also, industry is noticably absent in the area.

Commercial development in the community cannot pay local taxes and compete with these same types of businesses that operate tax free on the military post. Further serving to discourage commercial and service development is the fact that many impact families have remained in this area upon retirement to use their post privileges. This directly affects the commercial assessments and the total tax base for the school district.

Couples who come to the Fort Knox area because of the federal activity do so for employment opportunities during their working years. Most of these couples are of an age to have school age children. This has a tendency to increase the average number of children per family in the district above the average, thus making a further contribution to the dilution of the tax base per student.

Hardin County has been faced with providing school programs and facilities for an everchanging student population. Changes made by the Department of Defense for military or other reasons have brought about sudden changes in the numbers and makeup of the 3(B) impact student population. As an example of this, the elimination of the draft and its effects on the administration of on-post family housing in 1973 and 1974 resulted in a net loss in the northern half of Hardin County of 162 students in grades 1-7 during this period and an increase of 281 students in grades 8-12. Prior to this period, our impact population was heavily in grades 1-4.

Another prime example would be the reactivation of the 194th Armored Brigade. In February of 1976, this brigade was operating at 30 per cent strength. By December, 1976, it had been increased to 111 per cent of normal brigade strength. This action was largely responsible for creating an increase of 206 students in the immediate area of the post.

In addition to this, we suffer shifts of total numbers from year to year and some years we obtain facilities and add staff to accomodate population increases in September that have been moved by military action by the following February. We are currently attempting to plan building facilities to accomodate our growing population that could exceed $3,000,000 in the next two and one half years. If the military operations at Fort Knox were to drastically change the nature of its population, the population that justified the construction of these facilities may no longer be present to use them. A private business would not and could not be expected to make this type of investment in facilities without better assurances than impact districts have in these situations. P. L. 874 payments can be justified in great part to cover the cost to the local district of facing these and other uncertainties imposed upon us by the nature of local federal activity.

The Hardin County School System has done everything possible to help itself financially at the local level. For the past 35 years, it has levied the maximum taxes allowed by law. It has continually issued revenue bonds to the maximum, and in some instances has received permission to exceed the limit that is permitted by law for the construction of new buildings. To provide an adequate program of education for the local students of Hardin County and for those students who were placed in Hardin County because of the activities of the federal government, the local board of education has also levied a three per cent gross sales tax on utility bills, which was made possible by the state legislature ten years ago.

Public Law 874 and 815 have been important factors in dealing with our rapid growth and development. Without the aid of these laws, the children native to Hardin County and the children of many military people and government employees would not have had the opportunity to attend schools with a quality educational program. This legislation has allowed local school authorities to spend the money to provide the best program possible for the children of Hardin County and for those children who come to Hardin County because of the federal activities.

Hardin County and other heavily impacted districts in Kentucky have made every effort available to them locally to provide programs for the children found within their boundaries. Without continued P. L. 874 funding, Hardin County will have to increase its property tax levy by approximately 11.8 cents per $100 assessment with our assessments being at 100% of value. This type of levy would constitute a 27 per cent increase in the local property tax rate. This would not be permissable under existing law without a vote of the people. We have attempted a local tax increase referendum and it was turned down by the voters overwhelmingly. In view of these possibilities, without continued federal support, we will be faced with drastic reductions in programs and services. When it understands the issues and problems faced by districts such as Hardin County, I feel that this Congress, as others have done for over 25 years, will meet its responsibilities. In doing this, it will provide us the means by which we can continue to offer a reasonable program of services to the child who is moved about this world in the interest of the federal government.

I thank you for your consideration and the opportunity to be heard.

Respectfully submitted as prepared by

Charlie Akins, Superintendent
Hardin County Schools
Elizabethtown, Kentucky

STATEMENT OF CHARLES AKINS, SUPERINTENDENT, HARDIN COUNTY PUBLIC SCHOOLS, ELIZABETHTOWN, KENTUCKY

Mr. AKINS. Thank you, Mr. Perkins. It is a pleasure to appear before a committee chaired by a fellow Kentuckian. For those of you across the nation who appreciate this man, you should know the people in eastern Kentucky who appreciate him.

It is my pleasure to make some remarks on this matter relating to Hardin County. Hardin County is a school district comprising 600 square miles, and it contains about 85 to 90 percent of the Fort Knox reservation. We have about 10,000 pupils.

I have had the pleasure of working in this school district for the last 25 years. I came to the school district in 1952, when it comprised 600 square miles and 4,000 pupils. At that time approximately 32 percent of the population of the school system was impact students. Today, we have grown to almost 10,000 pupils, and we still have about 32 percent impact population.

In my opinion, this is about the only change that has occurred in the situation as far as we are concerned in Hardin County. We still are faced with the same problems that we were faced with in financing our educational system in 1952.

The Kentucky school local revenue picture is tied to the local property tax. We are faced with a continuing inequity across the state, running from, in 1976, about 1,200 and some dollars per pupil down to $480 per pupil in some of our poorer districts.

Hardin County is almost $100 per pupil under the state average, so that we are continually faced with a small tax base per pupil. The impact aid situation in the early "50's" constituted a dilution of the local property tax base. It continues to do this.

The situation in Hardin County and Christian County and Meade County is tied to the nature of the impact students that we receive. The highly mobile nature of these families in significant numbers dilutes our tax base because of the fact that by their nature, they generally occupy housing that is of less value than the average citizen of Hardin County.

We have a tremendous number of mobile homes. Only half or approximately half of these, according to the local tax commissioner, are on the tax rolls. In Kentucky, a mobile home is classified as personal property. Under the provisions of the Soldiers and Sailors Relief Act, they can have an option to pay their taxes in their home state residence.

Therefore, the tax commissioner finds it impractical to make any effort to obtain a substantial number of mobile homes on the tax roles. Even when he does obtain tax assessments for mobile homes, it comes out to a total school payment of about $18 per year. So, it is hardly worth the effort.

Those people who do not reside in mobile homes generally are in rental property because the average stay of these type students in our district is approximately two years. The rental property that is available is generally of less value and is assessed on the tax rolls at a lower figure than most of the other residential housing.

The other effect that continues to be present in Hardin County is the tax exempt commercial activities and service activities provided to members of the Armed Forces that tend to depress commercial development in the Fort Knox area.

We find very few commercial establishments that you would normally find in a community of nearly 18,000 people closely adjacent to the military post. It is impossible for these businesses to compete on a successful basis with nontaxpaying commercial establishments or service establishments that are provided on the post.

Another factor that I think affects the impact on our school system is the demographics of the population. Most of your military families who come to the Fort Knox area are in their working years. This is also the same years in which they would be rearing childen. So that we have a higher average family unit for military families in Hardin County than you would generally find in most communities.

Grandparents and uncles and aunts who do not have children do not come with these families. We feel like that our school population is larger than our general population would account for.

Another factor that continues to affect most school districts that are located adjacent to large military establishments are changes that occur because of actions of the Department of Defense from time to time that constitute major changes in our pupil population.

One change that occurred just recently, or in the last few years, was the creation of the all-volunteer Army. Prior to the creation of the all-volunteer Army, and the actions of the dependents or family housing authorities on Fort Knox, most of our impact in the Hardin County schools was concentrated in the lower grades because most of our people residing off post were in the lower ranks, or lower grades. Most of our impact was concentrated in the first six grades at least.

The volunteer Army tended to change some of this, and the actions on the part of the housing authorities in 1973 and 1974—went from heavy impaction in grades one through four to a concentration or an increase of almost 300 pupils in grades eight through 12, and a reduction I think of about 160 pupils in grades 1 through 7.

This happened at the same time that we were maintaining in the remainder of the county away from or several miles from the Fort Knox base, we were staying at about a stable growth rate in both elementary and secondary levels.

In 1976, in February, the 19th Brigade was operating at less than 30 percent strength. By December of that year, they had increased the strength of the Brigade to 111 percent of the normal strength for a brigade. During this period, in the schools immediately adjacent to the Fort Knox post we had a growth of 206 pupils. 206 pupils constitutes a pretty good sudden increase in the cost factors for a local school district.

The changes in the numbers, the uncertainty of the pupils being in your district after you have constructed facilities and so on, constitutes what we would like to have insurance for. I think we need an insurance factor for something that would allow us to plan and develop facilities to take care of our educational needs.

We are in the process now of planning and developing construction costs in excess of $3 million in our school district. I think it would be unusual if you could find a private endeavor that would spend these kinds of funds without any more assurances than we have in Hardin County that the students will still be there.

These things are things that affect our local tax base, as they did in 1952, and as they still do today.

Chairman **Perkins**. Let me thank you very much.

Our next witness is Mr. Sydney Williams, Newport School Department, Newport, Rhode Island.

I want to tell you, Mr. Williams that Senator Pell and I have had the privilege of working together for many, many years. There has never been a more devoted Senator in Washington that has been of greater assistance to this program and all other education programs, than Senator Pell. We intend to continue to work together for the betterment of education in the future.

I just wanted to mention that to Mr. Williams, coming from the Newport School Department.

You may proceed. Without objection your prepared statement will be inserted in the record.

[The statement of Mr. Williams follows:]

TESTIMONY ON PL 874

JUNE 22, 1977

BY

SYDNEY WILLIAMS

NEWPORT SCHOOL DEPARTMENT

NEWPORT, RHODE ISLAND

PRESENTED TO THE SUB-COMMITTEE

ON ELEMENTARY, SECONDARY AND

VOCATIONAL EDUCATION OF THE

EDUCATION AND LABOR COMMITTEE

U.S. HOUSE OF REPRESENTATIVES

Newport School Department
Newport, Rhode Island
02840

IMPACT AID - SUMMARY

The following are pertinent points of information concerning the Impact Aid Tables enclosed.

1. Impact Aid has relieved some of the burden of local taxpayers over the years in which it has been received.

2. While the amount of money received for the (a)'s in 1966-67 was 64.52 percent of the per pupil cost and the (b)'s was 32.26 percent of the per pupil cost, both those percentage contributions dropped when compared with 1975-76 figures of 44.30 percent and 20.26 percent respectively.

3. A comparison of the percentages of local, state, and Impact Aid share of the per pupil cost in the ten year period starting 1966-67 indicates the continued downward trend of the percentage of cost that has been provided in an economy which has continued to inflate.

4. Using 1975-76 figures the burden of the 1,674 eligible children represented by 36.40 percent of the total enrollment in Grades K-12 has been shouldered disproportionately by the local taxpayer.

5. In Newport, Category (a) pupils average payment per student was $771.15 while the cost of education was $1,740.72 per student per year. Rhode Island provided $405.28 of the per pupil cost, meaning that local sources had to provide $564.29 per student.

Category (b) average payment provided $352.64 while the cost of education was $1740.72 per student per year. Rhode Island provided $580.22 of the per pupil cost meaning that local sources had to provide $807.86 per student.

6. To replace 1975-76 Impact Aid with local funds would mean an increase of about $3.32 per $1000 valuation of the local taxpayers.

7. For Fiscal Year 1975-76 income from all sources for education was as follows:

Local	57.4%
State	35.3%
Federal	7.3%

8. Approximately 52% of the available property in Newport is not taxable being owned by federal and non-profit organizations.

9. The total taxable property in the City of Newport was valued at $200,000,000 in 1974. This represents 2,860 acres of land with buildings. The U.S. Government occupies approximately 400 additional acres of land which have been estimated to be valued at $28,000,000 (this is land only without structures). Based on the most recent data available, this 400 acres if taxed on land alone would yield approximately $100,000 in additional taxes. The 400 acres in question are primarily water-front property which, if developed by local interests, could easily yield over $1,000,000 in additional tax revenue.

10. The increase in numbers of (b)'s from [illegible]0 in 1974-75 to 1156.12 in 1975-76 is deceptive. In prior years, Newport has not received the full amount of its allocation. It has averaged somewhere around 80 to 90 percent on (a)'s and 50 to 75 percent on (b)'s. Starting with the 1975-76 school year and the addition of the low-rent housing (b)'s, the percentage of allocation for (a) students dropped 5 to 10 percent and for the (b)'s (without the hold-harmless provision) dropped between 30 and 40 percent. In other words numbers of children were increased but percentages of allocations has decreased.

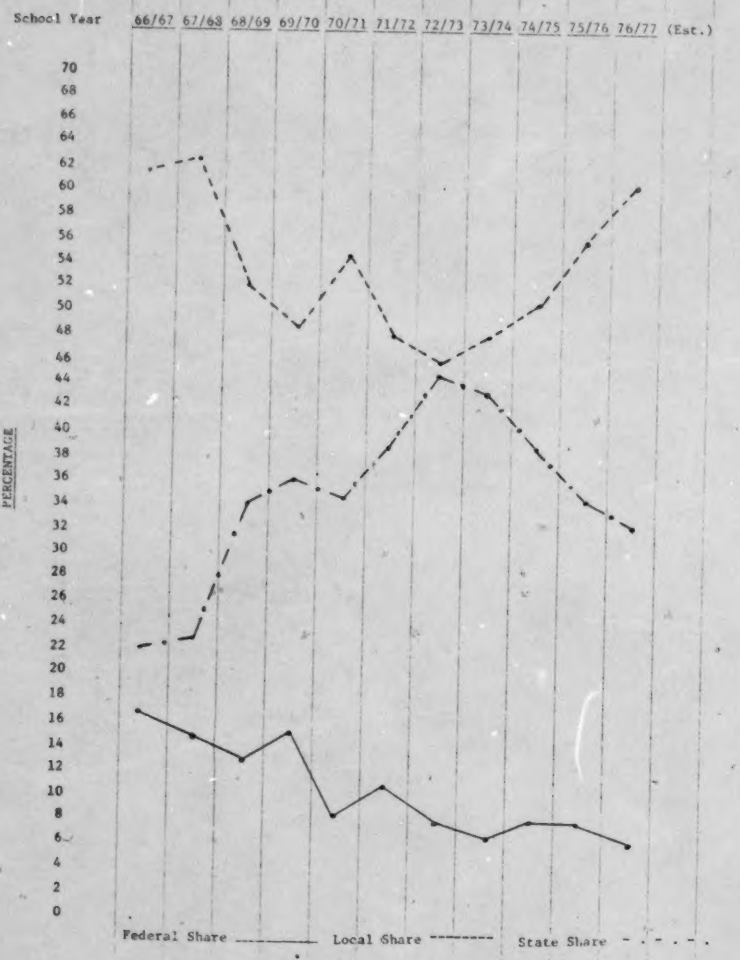
NEWPORT SCHOOL DEPARTMENT
NEWPORT, RHODE ISLAND

Percentage of "A" and "B" contribution to actual cost of education per child by year.

Year	LEA Cost/Child	Fed Rate for (a)'s	Fed Rate for (b)'s	(a)'s Percentage Fed. Contribution	(b)'s Percentage Fed. Contribution
1966-67	636.46	410.69	205.35	64.52	32.26
1967-68	709.07	456.04	228.02	64.31	32.16
1968-69	772.78	489.67	244.84	63.36	31.68
1969-70	882.90	525.00	262.50	59.46	29.73
1970-71	1,042.01	535.76	267.88	51.42	25.71
1971-72	1,166.03	598.78	299.39	51.35	25.68
1972-73	1,343.65	644.48	322.24	47.97	23.98
1973-74	1,481.01	576.43	288.21	38.92	19.46
1974-75	1,515.66	561.31	280.65	37.03	18.52
1975-76	1,740.72	771.15	352.64	44.30	20.26

NEWPORT SCHOOL DEPARTMENT
NEWPORT, RHODE ISLAND

Comparison of Local, State, PL874 Share of Per Pupil Cost 1966-67 to 1976-77



NEWPORT, RHODE ISLAND
FEDERAL IMPACT AID TO NEWPORT CITY SCHOOLS, 1966-67 to 1976-77

Year	Fed ADA for 3 (a)'s	Fed. ADA for 3(b)'s	Proration	Rate	(B) Total Receipts	District ADA	% of District ADA	District Gross Budget Expense	% of District G.B. Expenses	Should have received at full funding	(C) Amt. Received in F.Y. (includes adjustments for prior year	LEA per pupil cost on Gross Budget
1966-67	299	1815	3(a)'s @ 100% 3(b)'s @ 50%	$410.69 410.69	$122,796.31 372,701.17 T 495,497.48	5089	41.54	$3,238,937.74	15.30	----------	$510,483.00	$636.46
1967-68	300	1712	3(a)'s @ 100% 3(b)'s @ 50%	$456.04 456.04	$136,812.00 390,370.24 T 527,182.24	5106	39.41	$3,620,523.64	14.56	----------	$476,860.00	$709.07
1968-69	316	1824	3(a)'s @ 100% 3(b)'s @ 50%	$489.67 489.07	$154,735.72 446,579.04 T 601,314.76	5551	38.55	$4,289,708.94	14.02	----------	$485,177.00	$772.78
1969-70	538	1635	3(a)'s @ 100% 3(b)'s @ 50%	$525.00 $525.00	$282,450.00 429,187.50 T 711,637.50	5797.8	37.48	$5,118,910.29	13.90	----------	$719,935.00	$882.90
1970-71	583	1632	3(a)'s @ 90% 3(b)'s @ 74.5%	$535.76 267.88	$281,113.27 325,699.22 T 606,812.49	5471	40.49	$5,700,837.77	10.63	$312,348.08 $437,180.16	$527,604.00	$1042.01
1971-72	658	1563	3(a)'s @ 90% 3(b)'s @ 73%	$598.78 $299.39	$354,597.52 341,601.00 T 696,198.52	5701.2	38.89	$6,658,269.70	10.45	$393,997.24 $467,946.57	$784,984.00	$1166.03
1972-73	591	1392	3(a)'s @ 90% 3(b)'s @ 68%	$644.48 322.24	$342,798.91 305,238.82 T 648,037.73	5421.5	36.58	$7,284,596.17	8.90	$380,887.88 448,880.32	$599,605.00	$1343.65
1973-74	495	989	3(a)'s @ 90% 3(b)'s @ 68%	$576.43 288.21	$255,761.99 193,826.99 T 449,588.98	4749	31.25	$7,033,293.04	6.39	$284,179.99 285,039.69	$546,854.00	$1481.01
1974-75	459	700	3(a)'s @ 90% 3(b)'s @ 70%	$561.31 280.65	$231,877.16 137,518.50 T 369,395.66	4639	24.98	$7,031,137.00	5.25	$257,641.29 196,455.00	$595,258.00	$1515.66
1975-76	518	1156.12 (A)	3(a)'s @ 85.6% 3(b)'s @ 45.5%	$771.15 $352.64	$341,958.53 $185,298.64 T 527,257.17	4599	36.40	$8,005,611.09	6.59	$399,550.79 407,695.31	$664,730.00	$1740.72
1976-77	549	1398.6 (A)	3(a)'s @ 80.9% 3(b)'s @ 38.8%	$895.04 405.55	$397,430.47 220,045.30 T 617,475.77					$491,375.88 567,202.80	$621,036.00 (D)	

NEWPORT SCHOOL DEPARTMENT
NEWPORT, RHODE ISLAND

Notes:

(A) In 1975-76 & 1976-77 LRH students were included in computations and monies were received for them. Notice that the percentage paid on "b"'s dropped by almost half in 75-76 from what it had been the previous years and below half in 1976-77. What the feds gave us in one hand they took away with the other.

(B) These figures reflect monies received credited to the appropriate fiscal year. Monies creditable to other fiscal years were received in later years as follows:

1967-68	Additional monies received in 1969 and 1970
1970-71	Additional monies received in 1972
1972-73	Additional monies received in 1974
1973-74	Additional monies received in 1975 and 1976
1975-76	Additional monies received in 1977

(C) Additional amounts Received

1967-68	$ 31,709.00
1970-71	$ 85,080.00
1972-73	$ 9,618.00
1973-74	$183,938.00
1975-76	$132,225.25
Total	$442,570.25

These monies are counted as having been received by feds in the Fiscal Year in which it is received. It does not help us for the year in which we expected to receive it.

(D) These monies reflect actual receipts to date starting with 1 July 1976 to present

Creditable FY	Date Received	Amount
76	1 Sept. 1976	$ 22,269.47
76	17 March 1977	132,225.82
77	23 March 1977	362,865.19
77	13 May 1977	103,675.77
		$ 621,036.25

STATEMENT OF SYDNEY WILLIAMS, NEWPORT SCHOOL DEPARTMENT, NEWPORT, RHODE ISLAND

Mr. WILLIAMS. Thank you, Mr. Chairman. I echo your sentiments about Senator Pell because he has been one of the big champions of Public Law 874, and of education.

Newport, Rhode Island is probably best known for mansions, tall ships, the home of the American Navy, and currently the Americus Cup Challenge. But, we have also been dedicated to quality in education.

We are one of the original 69 right-to-read sites in the United States, and currently one of 13 of the NIE Title I sites, trying to do what is compatible with Mr. Quie's recently introduced legislation. Because of our dedication to quality in education, we feel that impact aid has been vital to the maintenance of that quality.

Let me summarize briefly the summary which I have already submitted for the record.

In a ten-year period of time, the amount of money in percentages that we have received, for example, for the Category A students dropped from a high of 64 percent to last year's record of 44.3 percent, and in the B's from a high of 32 percent to a low last year of 20 percent. In an economy which is continuing to inflate the share of impact aid in per pupil cost is dropping.

We have approximately 1,674 eligible children in our district who come under Categories A and B representing about 36 percent of our school population. Most of the monies used to educate these children falls upon the local taxpayer.

The most recent figures available to us indicate that it costs us approximately $1,700 per year to educate a student. Of that amount of money, a little less than half comes for the A students, and about half of that comes for the B's.

If impact aid were to be phased out in any period of time, using present figures we would have to raise the local tax rate ove $3 per thousand on a 70 percent assessment.

While Newport has been, as I indicated, fairly prominent in the news in the years, we have approximately 52 percent of our property off the tax rolls. Now, that is about 400 acres out of 2,860 acres.

The taxable property in Newport News is valued at close to $200 million. The land which is off the tax rolls primarily used by the Federal Government is valued land only at approximately $28 million.

Now, this does not include any improvements upon the land. We would estimate that we could easily raise over $1 million more in tax revenue if we had that land. But, Newport as a whole has valued the presence of the Federal Government, in particular the Navy, ever since it first came there.

I can only respectfully request that the Congress continue the impact aid and in particular continue the funding of the B students.

Thank you.

Mr. CROSS. Thank you very much.

Dr. Paxson, I believe you have a statement to make.

[The statement of Mr. Paxson follows:]

TESTIMONY ON AUTHORIZATION FOR
RENEWAL OF PL 874 AND PL 815

By

Wayne M. Paxson

Associate Superintendent of the Bellevue Public Schools

Bellevue, Nebraska

Presented to the Sub-Committee on Elementary

Secondary and Vocational Education

Chairman, Congressman Carl Perkins

BELLEVUE PUBLIC SCHOOLS
Office of the Superintendent
June, 1977

Mr. Chairman and distinguished members of the Sub-Committee: I want to thank you for the opportunity to appear before your Committee. I am Wayne Paxson, the Associate Superintendent of Schools at Bellevue, Nebraska. Our district serves Offutt Air Force Base and Headquarters, Strategic Air Command and is a prime example of a severely impacted district. Approximately two-thirds of our enrollment are dependents of those employed at the Air Base. Of the federally connected pupils, about one-half live on base.

I have been asked to comment on the local contribution rates used to determine payment rates under PL 874.

Congressional intent appears to be that the payment rate for an "A" pupil should be sufficient to insure that the lost tax base for such pupils has been replaced by the federal government.

The methods currently used to determine the rates vary with the financial structure of the different states. For instance, Nebraska until this year established a single group rate for all applicants which represented the average number of dollars raised locally in the state per pupil. The major weakness of this procedure is that the effect of federal impaction reflects negatively upon the state rate. It is and has been our contention that it was the intent of Congress that the local contribution rate of the average of the non-impacted districts should be used in order to achieve comparability. We have asked that the OE regulations be drafted which provide for this method.

For this reason, Nebraska changed to the individually selected comparable method this past year. Under this method, each individual applicant selects five non-PL 874 districts which are judged to be otherwise comparable to the applicant. The average dollars raised locally per pupil by the five comparable districts then becomes the rate for the applicant districts. Standards of comparability have been developed in the regulations used by OE.

Districts not applying individually are by law insured a minimum rate equal to one-half the state average cost per pupil or one-half the national average cost per pupil whichever is greater.

Several concerns have been expressed with respect to the methods used in calculating the LCR. One has already been mentioned, that of including the obviously low LCR's of impacted districts in the data when calculating a group rate.

Another concern is that the rates are calculated on cost figures that are two years old. In the high inflationary period, this has developed rates well below actual costs.

A third concern has been the increasing reliance in some states upon state aid. If for example, a state were to provide, say 75% of the cost of education, and the PL 874 rate for an applicant district was at one-half of the state average cost per pupil, it is theoretically possible for a district to receive 125% of the cost for educating an "A" pupil. It was for this reason that the equalization section of the law was enacted which allows states to reduce their state aid payments to PL 874 recipients when fully equalized state aid programs has been implemented in the state. Thus, it appears that any possible abuses of the minimum rate structure have been already corrected in the current legislation.

In summary:

(1) The two-year lag in rate calculations develops rates that are lower than actual costs.

(2) The group rate structure should provide that PL 874 applicants not be required to include their own LCR's in the data for establishing a group rate.

(3) The individually selected comparable districts method is time consuming and requires reviews of each application at local, state and national levels. It should be retained however, for those states where inequities develop under the group rate structure.

(4) Minimum rates are justified in those states with high state aid programs since this insures that the federal government meets some part of its obligation for the impaction and allows states with full equalization programs to reduce their state aid payments to PL 874 recipients.

STATEMENT OF WAYNE PAXSON, ASSOCIATE SUPERINTENDENT, BELLEVUE PUBLIC SCHOOLS, BELLEVUE, NEBRASKA

Mr. PAXSON. Mr. Chairman, members of the subcommittee, I would like to devote my remarks to a portion of the GAO report which dealt with the elimination of B funding and its costs to local districts and increased property taxes. (See Appendix 5) My district in Bellevue, Nebraska, along with Papillion and Plattsmouth are three districts among that 8 percent which the GAO report indicated would have to increase local taxes by more than 25 percent if B funding were eliminated. All three districts serve Offutt Air Force Base, and headquarters of the Strategic Air Command, and all have significant portions of B students.

In our own district, rather than the 25 percent, the amount of increase that would be required would be 33 percent. If the GAO report of 8 percent can be projected to the nation as a whole—and I question that that 8 percent should be quoted unless it can be so projected—there are 360 such school districts in the United States which are this highly dependent upon B funding.

The GAO report also indicated that the elimination of B funding would increase taxes on a $40,000 home by less than 50 percent for 81 percent of the districts. Our three districts that I have mentioned are among that 81 percent that would be in excess of that.

In the case of my own district, a home assessed at $40,000 real value pays a school tax of $720 per year. A 33 percent increase would equal $280 per year, more than five times the amount quoted in the GAO report. I believe that P.L. 874 was created to deal with the extremes in impacts, not just with averages.

The GAO report made another assumption that in the case of our district I would like to correct. This is the implication that districts would in fact increase their local taxes to make up for the losses in

B funding. This is not true in our district, nor I suspect is it true for Papillion and Plattsmouth.

Our district patrons for the 27 years of P.L. 874 have steadfastly maintained that they will not, and I repeat not, subsidize what they are firmly convinced is a responsibility of the Federal Government.

What is it that these three districts are more apt to do? I predict that they will immediately dismiss 150 teachers with a $10,000 average salary which just about equals the $1,500,000 in lost B funding. These 150 teachers, at $100 a week in unemployment benefits, which is about half of their salary, develop a total unemployment benefit cost of $750,000 in one year. Half of the $1.5 million that has been saved will have been expended in unemployment benefits within a year; in addition, the loss of state and Federal income taxes in the amount of somewhat probably in the order of $150,000.

Classroom enrollments in these three districts will go from a maximum now of about 35 per pupil, the three districts being among the highest in the state at the moment, would go from 35 to 40 per classroom. The losers, of course, are the children, not the teachers, and not the taxpayers, but the roughly 20,000 youngsters who enroll in these three school districts, a mixture of A's, B's and nonfederally connected pupils.

Another option in our state may be to charge tuition to nonresidents. This was referred to yesterday I believe by Mr. Quie. We started this process in 1970, when severe reductions were made in P.L. 874 funding. A supplemental appropriation allowed us to continue the operation of our schools, so this concept was never tested in court, as it surely would have been had we proceeded to implement such a plan.

This appears unjust to military personnel, and rightfully so, I think, to violate their right to a free public education and is certainly not recommended as a way to strengthen the human relations between the civilian and military segments of any community.

It does indicate the extreme positions which our patrons have taken and will take on a matter of principle.

The P.L. 815 assurances were referred to yesterday as stopping a district from charging tuition. They were signed by our Board of Education, and they are considered by our board to include an agreement that the P.L. 874 funds would be provided for maintenance and operation on a continuing basis.

Obviously, without P.L. 874 in 1950 the board would never have signed the assurances on P.L. 815.

In conclusion, the average quoted by the GAO report, even if accurate, does not justify further reduction in B funding. The implication that the elimination of B funding would simply be absorbed by minor tax increases cannot be verified in fact for highly impacted districts, at least it is more likely that the teaching staff would be reduced.

Thank you.

Mr. JENNINGS. While we are waiting for the Congressmen to come back, I would like to ask a question or two. They are over on the Floor right now with the vote on the foreign aid bill, and they may be delayed a couple of minutes. But, I know both Mr. Perkins and Mr. Heftel have a series of questions to ask.

I believe it would be helpful for the record if you could each describe your districts in terms of impaction, so that when the answers are given later to these questions, we will have an idea what perspective you are speaking from.

According to information supplied us yesterday by the Office of Education on impact aid school districts, 33 percent have fewer than 49 children, and 53 percent have fewer than 100 children for whom they are claiming impact aid payments.

Also, according to the same set of statistics, 30 percent of the impact aid school districts rely on impact aid for less than 1 percent of their budgets, and 67 percent of the impact aid districts rely on impact aid for less than 3 percent of their budgets.

Could you describe for us as you go down the table both your impaction in terms of your number of pupils for whom you are claiming impact aid, and also the degree to which you rely upon impact aid for your total current expenses.

We will start with Newport.

Mr. **WILLIAMS**. In Newport, we have claimed 1975-1976, which were our latest figures, 1,674 eligible children, which represents approximately 36.4 percent. The Federal share of our total budget is 7.3 percent.

Now, I can break it down for the A's and B's, if you would like.

For A's we had 518. For the B's we had 1,156.

Mr. **JENNINGS**. Mr. Akins?

Mr. **AKINS**. Hardin County, Kentucky, the last full year I think we had about 2,950 students of a total population that year of about 9,400.

The percent of the budget is roughly 7½—I don't have the actual figures with me— it is approximately 7½ percent of the total budget.

Mr. **JENNINGS**. I am not very good at math. So, your pupils are approximately 33, 35 percent?

Mr. **AKINS**. 32 or 33, I believe. That is what it has been running.

Dr. **FISH**. Our figures on student enrollment are approximates. The enrollment is 119,000. The number of Federally connected students total is approximately 26,000, of which 7,000 are A's and 19,000 are B students.

Mr. **CROSS**. What percentage is that?

Dr. **FISH**. The percentage of the budget has changed—about 5 percent of the budget.

Mr. **CROSS**. What percentage of your pupils?

Dr. **FISH**. 25,000—approximately, then, 20 percent of our enrollment has. It has been in that range for years.

Mr. **PAUL**. Of the two major towns that I service, in the Town of Ayer, Massachusetts we have approximately 2,300 A and B students, which constitute approximately 67 percent of our total average daily attendance. Impact aid received in that comunity constitutes approximately 50 to 55 percent of our gross operating budget.

In the adjacent town of Shirley, as mentioned before, we have 160 Federally connected students, comprising 19 percent of the total student membership. Impact aid received constitutes aprpoximately 2 to 3 percent of the total budget, with 19 percent of the students.

Mr. **Paxson**. In Bellevue, serving SAC and Offutt Air Force Base, we have a total enrollment of approximately 10,200 students, of which roughly one-third, about 3,500, are A students. About an equal number, 3,500, are B students. Almost entirely these are dependents of military and the other aprpoximately 3,300-3,200 students, are nonfederally connected.

Thus, we are roughly evenly divided between A students, B students and nonfederally connected, 32 to 33 percent each. Total impaction of roughly 71 percent this current year, and our budget, the percent of budget made up by impact funds ranges from 35 to 45 percent. It has been dropping due to the provisions and probably is somewhat less than 40 percent this year.

Chairman **Perkins**. Let me thank all you gentlemen for excellent testimony. I happened to be here in the 81st Congress when 815 school construction and 874 were written.

I have seen the results obtained from that legislation over a period of years, even around Elizabethtown. There were buildings with cracks that a dog could almost get through, where the youngsters were going to school back in those days. But, times have changed considerably.

Still, I have always felt that the schools in the country, need any help they can get from the Federal Government.

A number of you have made suggestions for improvement in the computation of payments, and in the administration of the program. Do any of you have any suggestions to be made on how we can move to a general aid program and keep impact aid as a program meeting a real need?

You know, we did this for the disadvantaged in Title I. Now I am asking you how we can move to general aid and let you keep impact aid. Give us your views on how we can do this best.

Dr. **Fish**. Mr. Chairman, we are as a group generally supportive of Federal aid to education. We look on the education of our children as a national problem. One of the experiences that we have had in impact districts has been this matter of the mobility of students. The local community educates the child, and his economic benefit is derived elsewhere.

We in California have experienced this especially so since the large number of people have come to the state. So, we believe that the lightening of the burden on the local property taxpayer is a proper concern of the Federal Government. We are surprised, for example, that we see revenue sharing to provide support for activities that are property related, like fire departments and things like that, while schools have not enjoyed that degree of Federal support.

We have considered this problem among ourselves several times. We have the regard that the impact aid furnishes some good examples in the model of providing a system that provides benefits for the students who are served. We have a very simple system to administer. That is one of the reasons why the school districts like it. It is a system which does not disrupt the educational processes. You can conduct it very simply. So, we have that benefit.

We would urge in moving towards a general aid program that it might encompass this idea of fitting with the enrollment counting system, either ease of administration, a payment related to service, the number of people provided, generally its characteristics. We would see impact aid maybe as a transition in this direction. We would see impact aid as providing a basis.

We see, also, however on impact aid that we are confronted with the reality that it is tied into our existing structure. Many people in our communities almost look on impact aid as a vested property right of that community. That is one of the reasons why they don't understand somebody approaching it as though it were some discretionary funds.

So, we would have to urge protection in any transition process.

We also are concerned sometimes about something that comes up, about the wealth of the ommunity. We have heard misrepresentations about that. The GAO report includes references to the fact that most impact communities are not wealthy. I assure you that the ones that have been speaking to you this morning most definitely are not.

Chairman PERKINS. I would like to hear the other gentlemen discuss how they feel we can move to a general aid bill.

Mr. AKIN. Mr. Chairman, the categorical programs and the impact aid programs in my estimation will always be necessary and must be funded so long as we have inequity, especially within the states, and some inequity of pupil funds from state to state. But definitely within the state.

I think that if we are going to fund general aid to education at the expense of any of the special programs that answer special problems, like ESEA, or impact aid, then this would be a basic mistake and would further inequities that exist within the state.

Some type of general Federal aid maybe that has incentive or does answer some of this problem of inequity I think would be quite beneficial, or something that was built on top of existing categorical programs would be quite beneficial.

Chairman PERKINS. Do any of you other gentlemen want to comment on the question that I just asked? If so, go ahead and comment.

Mr. WILLIAMS. I just have one brief comment, Mr. Chairman.

Chairman PERKINS. Go ahead, Mr. Williams.

Mr. WILLIAMS. I have been associated with Federal programs at the local level for approximately 11 years and have seen the value of accountability as it has been practiced in Title I. I think that somewhere along the route some form of general aid, some degree of accountability in terms of the quality of programs that might be going on in a district would be extremely helpful, not only to the local taxpayers, but to the Congress, who would be funding the money.

Incentives—I agree with my colleague—would be one way of doing it, to help the community to begin to realize that we have a trust in using the taxpayer's money. How it should go, I don't know at the present time, but I think these two things are vitally important to any kind of aid that comes to local government.

Chairman PERKINS. Mr. Akins said in Kentucky some school district spend three times as much for education as others, $400 a pupil compared to $1,200 a pupil. I would like for you to comment on that, insofar as it may suggest a way to travel towards general aid.

Mr. WILLIAMS. In terms of Newport, Rhode Island, we spent approximately $1,700 per pupil. Granted, we probably could spend more of the local money if we had more money to spend because the community is dedicated to education. I don't know how other people are making it throughout the rest of the country on smaller amounts of money, to be quite frank. We pour a good deal of money into education.

Chairman PERKINS. Let me ask you one final question now.

Yesterday the General Accounting Office told us that 48 percent of the 1,600 impact aid school districts which they surveyed would have to raise property taxes no more than 5 percent if impact aid were phased out. Is this situation for the school districts which are represented here today, or would there be more drastic effects on your district? And do any of you have any comments to make on the type of sample which was used by the General Accounting Office in arriving at their conclusions?

Dr. FISH. I would like to respond first to the type of sample. We consider the General Accounting Office sample is totally skewed. It was based on the availability of data because some states happened to be following one of their eight systems. We don't think it applies in any of the southern states, as was brought out yesterday in the testimony.

I would like to talk about that matter of percentage of budget and amount of taxes raised.

Chairman PERKINS. Go ahead.

Dr. FISH. In San Diego, we talk about 5 percent of our budget. But, I would have to say in the percentage of local property tax increase, considering other funding sources and everything, it would mean probably, and this is an estimate, an 8 or 9 or 10 percent increase in local property taxes.

If you look at my testimony, I have some material on this that might show that. Remember that it is under local resources that impact aid is considered. If a state had a state aid formula that came approximately to 5 percent—unfortunately I don't know how many states have reached that level, I don't think the national average has—if you decrease the budget by 1 percent, you increase local property taxes generally by 2 percent. This makes that burden pretty heavy.

I must make people aware that a very small percentage of school revenue is an extremely serious matter. We have entered in recent years sometimes with a reserve of less than one-half of 1 percent. It is not a degree of discretion in our budget, and our budgets are extremely tied up in salaries and in contractual relationships. In a period of declining enrollment, they are even more tightly bound. So, 1 or 2 percent are significant figures.

I also am concerned about the idea that they go to small school districts, or small numbers of students. These people are severely cramped, too. The size of a district here is somewhat of an irrelevancy in the process.

Chairman PERKINS. Mr. Kildee?

Mr. **Kildee**. Thank you, Mr. Chairman. Just a brief statement and a question to the witness.

The revenue producing power of local school districts throughout the country generally is limited by local property tax, and usually the necessity for a vote of the people on the local property tax. But the revenue producing power of the state and Federal Government is generally limited only by the wisdom and the courage of the legislature and the Congress. I spent 12 years in the legislature and recognized that.

There are real problems because very often people vote against school millage, not because they are against schools but because it is the one tax they get a chance to express their anger against taxation in general. I have seen that in my own state.

Could I ask you just briefly if you could comment—what is the pattern—I know what it is in my state—the pattern of approval of increased property taxes in your own school district or those around yours?

Dr. **Fish**. I could comment on a report that just came out called, 'The Condition of Education,' presented by the Government Printing Office. It includes two facts. One, it says 50 percent of support comes out of the local property tax, and then also it says during the past ten years the number of successful bond elections dropped from 74 to 46.3 percent.

Now, that is not exactly the same kind of money we are talking about. But, I would have to say that in California the tax override election expeience has been very similar to that decline. I have seen it happen in a number of school districts in the state. I would have to say the majority of tax overide elections appear to fail; that is, to achieve a simple majority—50 percent plus one.

Mr. **Kildee**. So if impact aid were to be withdrawn, the probability of getting the dollar gap taken care of locally would not really be very good, would it?

Dr. **Fish**. Not only that. It would become an extremely emotional issue in most of the communities here. People would say, "These outsiders are freeloaders," and they would react to the other benefits, and it would be unfair to the Federal employee.

Mr. **Kildee**. It would have a certain divisive factor.

Dr. **Fish**. I am convinced of that.

Mr. **Akin**. Could I respond to that. In Kentucky we have a legal limit that a local Board of Education can levy without a vote of the people annually. If you want to go above this, then you have to have a special election and a voted levy, specified in the vote. In the last five years, about the only thing that has passed in Kentucky has been extension of existing voted special building fund taxes. Most other issues have failed. We tried an issue two and a half years ago, and it failed 4 to 1 for a special building tax.

If we had to vote an issue to replace impact aid, it would have almost no chance at all. Most of the issues that are presented to the people are presented for the purpose of facilities, and we point out advantages and improvements for the vote. You have a chance of pointing out these things. But, if you point out replacement, I don't think you would have a chance at all.

Mr. **Kildee**. You have to have a certain quid pro quo. I have been involved in some of these in my own district. Property tax constitutes about half of our funding in Michigan, so I have supported that. But, I know it is difficult to sell those elections.

Thank you, Mr. Chairman.

Chairman Perkins. Mr. Quie?

Mr. Quie. Mr. Fish, do you have bilingual education programs?

Dr. Fish. Yes.

Mr. Quie. Do you have Category C?

Dr. Fish. Low rent public housing students, as they are known. No, we do not. We have 600 students, but the administrative burden claimed on the funds and functions would have eaten up the money. So, we simply didn't apply for it.

Mr. Quie. What do you mean by that?

Dr. Fish. By the nature of changes in Public Law 93-380, in which the low rent housing students were designated to come in under—eventually through regulation, designated to come in under the Title I program, aspect of Title I, it would have meant a grant of maybe $30,000 that we would have had to function, a whole new process, application, and so forth, and state approvals and so on.

The approval process was so slow on this that by the time we would have gotten a grant there, it would have been almost May or June of the year in which we had to spend the money by October. So, we decided that it wasn't good administration to proceed in this manner.

Also, some of the students in the public housing projects were Federally connected as military dependents and so forth. So, we took them in that category.

Mr. Quie. Do any of the others of you have category C? Do you have bilingual?

Mr. Williams. We applied for a small bilingual grant under that category and we made application for it through the State agency in, I think it was December. We received final approval after it had gone through all of the various stages sometime in May.

We did not feel that the period of time from May to June could put us in the position of having a quality program. So we are now attempting to take the funds and use them as carry-over in Title I, but we are also working locally to attempt to put in ESL ourselves..

Mr. Quie. What do you mean, take the funds as carry-over Title I, bilingual funds?

Mr. Williams. The bilingual project that we attempted to get under these funds would have been under the Title I.

Mr. Quie. I see. Rather than out of the regular bilingual program?

Mr. Williams. Yes, that is right

Mr. Quie. In making your plans, who would have been helped by your category C, who by Title I, and who had you anticpated to help under the bilingual program, if you had received it early enough?

The reason why I ask about bilingual is that, most of it goes for basic skills, Title I is mostly for basic skills and we require category C to be used for basic skills.

Mr. Williams. Newport, Rhode Island, has quite a number of different people coming into it, basically from the Navy.

We also recently opened up a new Jai Alai Fronton where we have over 100 students speaking predominantly Spanish. We were going to work with those students under the category C, use our local funds, try to get to some of the others in our community, where we have a lot of Portuguese-speaking people and marry one to the other, one program to the other.

Mr. **Quie**. Would you have permitted any of the students in the bilingual program also to be in Title I classes?

Mr. **Williams**. If it was not in conflict with the law, most assuredly.

Mr. **Quie**. Would you have any of your category C pupils in either Title I or bilingual programs?

Mr. **Williams**. I am not sure I understand the question, sir.

Mr. **Quie**. I was wondering to what extent you integrated those funds or if you had them totally separated so that the students receiving training with the bilingual funds could not receive training out of the Title I program, or those pupils could not receive help under category C. The testimony has indicated so far that some schools divide them according to academic achievement or various other ways; others integrate them so the same student can get certain skills from different courses.

I have even had a person tell me about a student who was in all three who went to different ones, different parts of the day, and took the same thing in all three of them, so he was kind of bored by the third period of that nature. I was wondering how you handle that.

Mr. **Williams**. We have one of the 13 NIE sites for the Title I experimental program. What we have tried to do is to integrate our services, keeping financial categories to one side so that we do not get in conflict with any law. We would have integrated the services.

Mr. **Quie**. You would have integrated them?

Mr. **Williams**. Yes, sir.

Mr. **Quie**. How do you determine which schools would be target schools in Title I, since you are one of the 13?

Mr. **Williams**. What we have done is—Newport in 1970 voluntarily desegregated the schools. In doing that we just eliminated school district lines. We surveyed to find out where the children come from, in low-rent housing, in AFDC, blighted areas; we determined the school where the highest number of students happened to be, checked the educational deprivation, and built our programs into those schools so that the children are served wherever they may be.

Mr. **Quie**. Do you use only educational deprivation?

Mr. **Williams**. That has been our primary criterion.

Mr. **Quie**. How do you determine that?

Mr. **Williams**. I personally and professionally am not very much enamored with "normal" reference testing. I think there should be a combination of normal referenced and criterion referenced judging. We use a combination of both, we use teacher referral and we have a rather complicated formula, which factors out some of, we hope, the biases and we truly get to the students who have the educational need.

We did a controlled view of our system the other way, and we would have come out with the same students. So we were pleased with what we found.

Mr. **Quie**. By "the other way," what do you mean?

Mr. **Williams**. If we had kept school distícts and just used the basic Title I criteria, as it is in the existing legislation; we found that we were getting to the students who needed the help.

Mr. **Quie**. It was exactly the same students?

Mr. **Williams**. There was one or two percent difference.

Mr. **Quie**. That is interesting, because that is the difference in the Fortune and the Glass studies. When are you going to have a report ready?

Will that be a part of the September 30 report that NIE will make available?

Mr. **Williams**. Yes, it will.

Mr. **Quie**. Have you submitted it to them as yet or is that going to be coming later on?

Mr. **Williams**. The survey that we did was in-house.

Mr. **Quie**. I see. Is that also going to be made available to the people.

Mr. **Williams**. It will, if they want it, and I will see if they want it.

Mr. **Quie**. I would like to see it, myself, if you could provide it.

Mr. **Williams**. More than happy to, sir.

Mr. **Quie**. It would be very interesting. That is one of the things I have been trying to get all over the country, because that is a study comparing the two groups with each other.

Let me ask if any of you receive any funds for handicapped military or Indian children?

Dr. **Fish**. Yes, we do receive funds for the handicapped children under this Act.

Mr. **Quie**. Handicapped, we have two types, military and Indian.

Dr. **Fish**. Military.

Mr. **Quie**. Just military?

Dr. **Fish**. Yes.

Mr. **Quie**. How do you use those funds?

Dr. **Fish**. To support the program. The funds come to us based on the provision of supplying services to children who are in handicapped educational programs. We receive one-half of the entitlement on military children only. I will use the 1975-76 example.

I am not sure we received them for that year, but our A payment was $600. We would have received an additional $300 if that child was in the program. The cost of providing those services was rising so fast and the district—I know right now our district as an aggregate is carrying $4 million of excess costs. So I am pretty confident I know where those funds are going.

So we received, of our students, the percentage was about 5 percent, which qualified as being appropriate programs. That is fairly standard. Before in our community there were a number of CHAMPUS programs operating which were a much more expensive proposition. Generally the students are now in public education as a result of this, able to participate. We were serving most of them before, though.

Mr. **Quie**. Does California provide State money for the handicapped over and above the normal costs?

Dr. **Fish**. They provide some State money, but the $4 milLIon I referred to is above that.

Mr. **Quie**. Above that?

Dr. **Fish**. Yes.

Mr. **Quie**. So you get the $300 per pupil for the handicapped over and above the $600?

Dr. **Fish**. Yes.

Mr. **Quie**. Then you get the State money that is available. Do you get any Title VI ESEA?

Dr. **Fish**. Title VI ESEA, at the present time the only thing that is operating in our school district is a search and serve project.

The first operation of that program will be next year. We estimate the amount of entitlement per handicapped child will be $41. You must remember in handicapped children you are talking programs which are two and three times, four times as expensive as regular programs.

Mr. **Quie**. Of course it varies?

Dr. **Fish**. Generally the costs are much higher per child.

Mr. **Quie**. A blind spastic would certainly be more expensive, so you would need some speech therapy.

Mr. **Fish**. Yes.

Dr. **Quie**. So it varies. If you did not have that $300, where would the money come from?

Dr. **Fish**. As it did in the past, the local property taxpayer.

Mr. **Quie**. From the property tax?

Dr. **Fish**. Yes.

Mr. **Quie**. You would not lose any from the State.

Dr. **Fish**. No, we would not.

Mr. **Quie**. Of course, you would not lose any out of the Title VI?

Dr. **Fish**. We assume we would not. We would be stunned if we did.

Mr. **Quie**. You presently then comingle the money with the other programs? There is no requirement that you identify the child separately, is there?

Dr. **Fish**. Yes. There is a requirement that we identify the child for service. We must show that that child received the service in a State-approved program. As we interpret it, that was the intent of the Act, to see that the military dependent child was served.

Mr. **Quie**. Okay. Since you are in charge of this whole group, your experience could those of us who have had concern over impact aid for a long time. When the issue comes up on the floor in an appropriation bill, they always say, "Well, the authorizing committee ought to take a look at it," and even individuals like yourself, who are heavy users of impact aid, have in the past admitted some inequity in the program.

Do you think that it is now in the form where it ought to be left the same or do you think there could be some improvements in it to make it more equitable?

Dr. **Fish**. I think our definition of "equity" might be a little different, Congressman. I refer to the fact, and I use the 1975 example, that I mentioned in our testimony, that our cost of edcucation was $1300. We received for an A child who had either home or business where his father worked, being taxed, he received $600.

The State provided $446, the local community still absorbed $252 per child, for an A child. That was coming out of property tax primarily.

For the B child the cost of education was still $1300, we still got the $446 from the State. This is an average—some were higher, some lower—these were averge figures. We received a B payment of $191. In other words, the local property taxpayer was paying $663 per student. So we are saying, in effect, half of the property tax comes from residential property; the last time we looked it was 52 percent in California.

The Wall Street Journal a few weeks ago included a statement that two-thirds of the tax was from business. So the nontaxpaying business is about half of our tax base. We think in equity that the payment for the B student should be increased.

We feel in our community, although we have a high number of military, we feel there is no differnce between the military or civilian. The military follows the policy sometimes of replacing employees, military employees with civilian employees. They say, we are now going to move to civilian.

In the law, Public Law 93-380, there was a slight change made, that the military entitlement was made a little bit higher than the civilian entitlement. The justification was they had the commissary benefits and health care benefits, and so on, that the civilian employees did not have. So we were entitled to more because that money did not come back into the local economy.

So we feel that if anything the civilian, being an integral part of the program, we do not consider that should be cut off. We do not understand the reasoning of making the differentiation between the As and the Bs, because even to begin with, the basic rate is half that.

I do not believe that is what you wanted to hear.

Mr. Quie. That is immaterial to me. You make the answers the way you see them. I surely would not expect you to come and tell me that you ought to have less money, but I do feel it needs some work to make it more fair and equitable.

Dr. Fish. Yes.

Mr. Quie. From your answer I would assume that.

Dr. Fish. It has been adjusted, one of my colleagues said 40 times; we see conditions changing. Some people say it has been around too long. I doubt if the law, as it is now, is the same.

We would ask, for example, that all Federal properties be looked at. We would include the tax-exempt Federal Post Offices.

Mr. Quie. When you surmised my own personal views would be different than yours; you surmised correctly. We all have some biases.

What I am leading up to is, who do you think could do the most fair and impartial study of impact aid?

What organization? what agency? I do not care, pick anybody you want who can do that best.

Dr. Fish. For some reason we believe that this is an authorizing matter. We believe this goes back into the matters of Congress, really. As you said, they refer back to the authorizing committee.

We think that the law—from our perspective the law is a thing that happens out in the school system; when I was testifyng before, we had a different perspective.

We want somebody who looks at the perspective from a national viewpoint. We frankly feel that the local press here in Washington does not understand this bill. We would want it to be somebody who is responsive to the nation as a whole; therefore, we would think something overseen by Congress.

It has been studied twice, by the Battelle Institute and Stanford, and both of those were nationally respected organizations. Already——

Mr. Quie. I disagree with Battelle.

Dr. Fish. No. Battelle does not undercut the program. It has been very selectively read over the years.

Mr. Quie. That is not what I asked.

Would you agree with Battelle?

Dr. Fish. Not in total.

Mr. Quie. How about Stanford? How about that study?

Dr. Fish. It has been several years since I read it. It was done in the late "50's" I believe, but it made the case that there was an impact on the communities.

Battelle included a statement, as I remember it, because I remembered it very well, that if there is a basis for the As, there is a basis for the Bs.

A lot of the things in there I found great comfort in, in both documents.

Mr. Quie. Do any of you get Indian impact aid?

Dr. Fish. There is in the coming testimony—people from Indian groups will be in, I believe next week, to testify.

Mr. Quie. None of you have Indian aid?

Dr. Fish. None of us.

Mr. Quie. So I will not ask you about them.

One of the things that came up yesterday that has bothered me through the years as well. Let me use the example of my own area where a farmer would decide to work his farm at night or after work, as a number of smaller farmers do, and go to work for the Federal Government. He has not moved or anything, the schools were educating his children prior to his seeking employment, so how did that farmer become a greater impact on the community when he started working for the Federal Government than he did prior to that?

Dr. Fish. I would have to say that he was working on a nontaxpaying piece of property and I agree that there are exceptions like that. I know farmers are industrious people, but I do not know how many there would be like that.

The Office of Education, in their testimony made the point that there are people, they said something that was one of the inequities, they identified people in the community who would have been there anyway. To me that is not significant. If that person replaces somebody who derived his entire income from the Federal Government, they would be the same as any other employee. The point is that there is a position there that is taking the place of a taxpaying piece of property, providing or doing a job. They have dependents that are in the schools. I tie taxes together, there is property; there is residential and business property.

Mr. **Quie**. Whether he is a farmer or a homeowner, and he could substantially increase his income by working for the Federal Government, he probably would make improvements on his property which then would raise the taxes locally.

The school district benefits substantially, even without the impact aid, but then it gets impact aid over that.

Dr. **Fish**. Yes, sir. But if he had gone to work on a taxpaying property, his efforts would have increased, the taxable effort of the community, too.

Mr. **Quie**. That is right. He would not get any impact aid.

Dr. **Fish**. We get the tax revenues. Many of our communities almost look on impact aid as a vested right. We have a very difficult time understanding why the Federal Government would even consider cutting it off.

I am going to say something that is very facetious and I do not mean it to be, but has the Federal Government ever conducted a study to propose not to pay the electric light bill? You see, that is the way we look at it. The Electric Light Company has a monopoly, provides a service, and it could be absorbed and it is a relatively small part of their revenues. I do not mean to be facetious, but that is almsot th way we look at it.

Mr. **Quie**. Carrying that further, then, should they be making payments to the Police Department?

Dr. **Fish**. In San Diego the Navy used to provide additional shore patrol help until very recently. The Navy does lighten the burden on the hospital, they take care of the dependents in the community, we do not have to staff the hospitals for them.

Mr. **Quie**. Usually it takes more policemen when there is a military base around.

Dr. **Fish**. We do not want to disparage our good friends, but also remember, they provide on their base the police services and everything, but they do not provide the educational services except through impact aid, through section—

Mr. **Quie**. They do not provide the total police service, either, that is needed for the community because of the military base?

Dr. **Fish**. That is true.

Mr. **Quie**. Have you done a study or has anybody done a study that you know of to determine the value of the property taxwise, so that each of the districts, would know how much it would have received if this was a payment in lieu of taxes rather than the impact aid? You are all heavily impact aid users, so you may have received more.

Mr. **Heftel**. Will my colleague yield?

Mr. **Quie**. Yes.

Mr. **Heftel**. We have in Mr. Francis Paul's statement an example of the answer to the question you are asking.

You will find on page 7 they have computed the fact that the compensation of $25,000 is equated against a loss of $65,000 in terms of what would have been tax revenue. So they have endeavored to try to equate the payment against what they felt was the loss in revenue.

In the example there you have used, I assume you feel it is representative of your district.

Mr. **Paul**. Yes. In the determinations we used what apppeared to be the fair market value of land per acre, properly developed either for industrial or residential use, at today's market value and today's current tax value.

Mr. **Heftel**. You would have received $65,000 in tax revenues versus the fact that impact aid had represented $25,000.

Mr. **Paul**. No. We would have received $139,000 property tax revenue, but we assume that since commercial property accounts for 50 percent of all property tax revenue, of the $130,000, $65,000 would have been property tax, applying only to B students, commercial property tax, and $65,000 would have been residential property tax, on which there was no loss.

So when we receive $25,000 impact aid, it was $25,000 against a real loss of $65,000 preorpty tax revenue from the employer. There was a two-thirds loss in tax.

Mr. **Heftel**. That was your average of your two forms of taxation, residential and commercial?

Mr. **Paul**. Yes.

Mr. **Quie**. What was the increase in the private property value because of the military base? I do not know your area, but I know in San Diego, would be San Diego if it were not for the military.

Mr. **Paul**. I do not have the information readily available, because Fort Defense came into existence as Camp Defense and my father served there. So that was quite a bit before my time. It came into existence I think about 1915 or 1916. It was during that period of time that the Federal Government acquired the land. So I have not delved that far back to determine; property values have gone so far out of whack it would be difficult to look at the loss to the town other than the projections that we have which are not unreasonable based on today's fair market value.

Mr. **Quie**. But is it beneficial to have that? You have not looked at what the military did to the other property. I was wondering if the rest of you have done anything similar to what you would have if you had received property tax. You could submit that for the record.

Dr. **Fish**. I believe most of us here at the table have it. I know in San Diego for 1973, I asked the assessor to give me the value of the land itself, in our 15 military installations. At that time it was $750 milion in our school district. I projected forward on the increase of valuations from that point, our finance people did, and we said that in 1975-76 it was $945 million in land alone.

Now there are a couple of factors that are significant here. It is very hard to make this kind of comparison because, what is the value of an airfield out in Kansas, for example?

The going market is not great. So we cannot judge the improvements. That has been one of the problems with "in lieu" tax bils. That is the reason we are nervous about them.

Congress passed one and I think they limited the payments to 50 cents an acre. So we know it would be at least this amount of money. The improvements, we do not know.

We do know, we computed on this that at the earlier time it would have essentially been twice the amount of revenue on the land, twice as much as we received—

Mr. **Quie**. As you presently are receiving?

Dr. **Fish**. —under impact aid. Of course that would not have meant the school district's revenues would have gone up twice as much; rather, the taxpayer would have had a reduction in his property tax—we have a revenue limit law—which would have been very welcome.

Mr. **Quie**. What do your school taxes amount to, two-thirds?

Dr. **Fish**. In San Diego it runs about two-thirds of our revenue from local income sources was 55.3 percent, which means property tax.

Mr. **Quie**. I mean, of the property tax, what percentage goes for education?

Dr. **Fish**. Approximately half. I can submit that in writing to you.

Mr. **Quie**. Okay. So you would have come out about the same then; using "in lieu of taxes" for the property would have doubled the amount of money?

Dr. **Fish**. No, that is just school taxes I am talking about, sir.

Mr. **Quie**. Let me run that by again and see if I understand it. You indicated that the property taxes would have increased by double the amount of impact aid.

Dr. **Fish**. I mean school property tax.

Mr. **Quie**. If they had been paying taxes on it?

Dr. **Fish**. I am sorry, sir. I confused you. I meant to say the school property tax would have been twice as much.

Mr. **Quie**. So in other words, based on the value of property, "in lieu of taxes" would have been 4 times the amount that you received i impact aid; the doubling is for the schools, and then there would be another doubling again. What you are saying is 4 times as much?

Dr. **Fish**. Yes, but that does not include the improvements, too. So this is just on the land.

Mr. **Quie**. Just on the land?

Dr. **Fish**. Just on the raw land.

Mr. **Quie**. Let's get that straight. Four times as much, is that correct?

Dr. **Fish**. Yes. You get a bargain there.

Mr. **Quie**. I just want to know the facts, that is all. I do not know it is a bargain. That is a pretty substantial amount, 4 times as much.

Dr. **Fish**. Yes, sir.

Mr. **Quie**. I will turn it over to my colleagues.

Mr. **Weiss**. Thank you.

Mr. Heftel.

Mr. **Heftel**. I think we are touching on what we started yesterday, and I think it is at the heart of the problem, to demonstrate to Congress and to the media, as you point out, that impact aid is not some kind of a gift. It appears that you suffer mostly from the fact that you do not have a bureaucracy, supported in Washington, which in turn perpetuates impact aid.

I think the very strength of the program, which is its lack of high administrative cost and employment in Washington, is in turn its weakness because you do not have a constituency in Washington dependent upon impact aid for the continuation of their own employment. So you do not have an ongoing lobby, which may be wasteful but, nevertheless, the President has a lobby which costs you nothing but is on the payroll to continue to lobby to maintain the program. There is no one articulating the position of those who need, in fact must have, impact aid.

I think one of the things that perhaps would be most helpful, as I now have seen the second day of testimony, would be to just simply come up with a formula, State-by-State, district-by-district, and indicate what you are going to need for nonresident student tuition, and let the Federal Government make a decision, let the Congress sit down and make a decision.

What does it want to do with those two alternatives: a, to continue impact aid, or b, come up with a tuition formula, which either the person who works for the Federal Government pays the tuition and then has the problem with the Federal Government in terms of continued employment, or the Federal Government is going to have to make those payments directly in terms of maintaining a Federal employment role throughout the country.

I think that is the kind of thing that you are going to have to do because it is apparent that there is a great deal of testimony, a great deal of factual material which substantiates the reason for and the efficiency of impact aid, and yet the impression is one of waste and one of the programs to be immediately eliminated.

In fact, I would like to read, if I may for a moment, a letter from Secretary of HEW, Mr. Califano, to our chairman on June 15, in which he states:

"As you know, the President's budget recommended elimination of the part B impact aid program and reorientation of student assistance programs."

He goes on to say:

"I will conduct studies . . ."

So you already have the conclusion reached before the studies have been implemented. I think this is a tremendous weakness in all of what I am hearing and all the questioning has brought this out.

I think the difficulty of coming to Washington to testify in a two- or three-day period and then go back to what you do 365 days a year is very difficult, as opposed to those who sit here with nothing to do but perpetuate, a, their own programs, and b, the elimination of programs that do not involve them, because they have to keep cutting somewhere, and it is so much easier to cut that which belongs to someone else, that is not part of your department, your program, and your whole frame of reference in this HEW bureaucracy we have.

So it may well be, since you are——and this is again interesting—since you are the president of the impacted area schools, as such I think it would be interesting to know exactly how you split your time.

You are also Director, Special Projects, San Diego Unified School District. I would guess that you are doing a lot more than just acting as president for impacted area schools.

Dr. FISH. Yes, sir, I am.

Mr. HEFTEL. It may be that the districts of this country which have impacted aid will, unfortunately, have to spend all those additional dollars to have a very strong, well-documented program, competent people, staffed in Washington, to start explaining and educating so that we quit hearing about the elimination of impact aid.

Perhaps you ought to do the reverse, come in with a program to substitute it, with a tuition program. Take the aggressive position of saying, this is not enough, it is inadequate, we are tired of listening to you telling us we are getting a gift. We have decided, instead, that we are going to pass laws in each of our States calling for tuition payment for the education of nonresident students. You can forget impact aid because we have a difference here of 60 and 70 percent in some instances, as I go through the testimony of the different gentlemen and read it here as I have been sitting here.

Dr. **Fish**. I would like to comment on that tuition idea.

We would need it to illustrate the point. We hope school districts never reach that point in terms of identifyig this student as a tuition student or something because of the unfortunate—what happens with children. That is our responsibility.

We do have a third-year law student who spent some of his time away from the books tracking things down for us. We see part of this as our virtue, that we relate to Congres. We relate to the interests of the local property taxpayer. We are serving in jobs and we do have the benefit of these men at this table who can tell you specifically what they would have to do if they lost impact aid, what it would mean in human terms, in terms of the quality of the program, the people who would be affected, and in terms of the local property taxes. We think that is one of the reasons why we have survived as long as we have.

Mr. **Heftel**. I think perhaps it would be desirable to in fact, though, do it in the reverse position. You are constantly saying, "This is what will happen to us," and you act as though the burden is yours. As a result, you are constantly defending something as though it is not totally defensible and it is not totally proper.

It may be, whether you like to distinguish between the tuition and nontuition student, that that is the only way that you can make your point, which is to imply, and once and for all make it clear, that impact aid does not adquately compensate those districts who are educating students who are there because of nonproperty-paying Federal installations, where the school system is only supported through that property tax system, and you have to use the tuition formula. It may only be by taking that position and making somebody sit there and say, "Wait a moment, what have we walked into?" because the first thing that this Administration did was say, "We will get rid of impact aid."

The first thing that you find not in the budget is impact aid, because I can remember the day in this very room, for other reasons, being informed that impact aid was not going to be in the budget.

Now you live with a very real threat of waking up without it. There has been another very serious compromise made, on behalf of whom I do not know, but between the Administration and members of Congress, statements have come out, there is no question they have been accepted, that there will be, over a period of five years, an elimination of impact aid.

Now, whether that is real or imagined or is just a fond hope, I do not know, but the suggestion was that, "We will compromise—". I do not know who is doing the compromising, but supposedly we will put in new programs in education in certain areas and as an agreement for that we will also phase out impact aid.

So impact aid is not only very threatened, it is not very stable or substantial. It has no constituency of any consequence that wants to keep it. So if in fact impact aid is something that you recognize, as I think I recognize it and it is pretty obvious, is critical, I think you have to come up with a different approach, which is the one which says, "We are not here to defend impact aid. Here is the presentation we are making and here is what we are telling you. If you want us to educate nonresident students, it is the tuition base that we are going to implement and we are going to start going to work at the local level, the State legislatures of each of our several States, and we are going to push for legislation because of what it will do to increase the total income with which to support the student that you are imposing upon us."

I think somewhere you have to develop a positive program, and an alternative system which is far more difficult to defend and to support on the part of the bureaucracy in Washington, otherwise, I do not think you can perpetuate impact aid because you can tell from the history of it, the first thing to cut out is impact aid. You cannot be in that precarious position.

Dr. Fish. No, we definitely cannot. It imposes too many burdens on the local people. It is very detrimental to the educational system to have this come up year after year, and we cannot go through that. I agree with you, Congressman.

Mr. Heftel. Thank you.

Mr. Weiss. Are there any other questions?

Thank you very much, gentlemen. Obviously it is a matter we are going to be paying increasing attention to.

Dr. Fish. May I add another comment?

Mr. Weiss. Of course.

Dr. Fish. We have neglected to mention in our comments, we have talked about these people who have worked on this program here in Washington, the SAFA office. They were systematically stripped of personnel over a number of years. The people there worked weekends without pay and we are aware of that. We would like to express our gratitude and recognition of their efforts. We would like to say they are probably one of the more effective and popular groups of people that school districts work with because they relate well with us and they are aimed at providing benefits to us.

We thank you very much.

Mr. Weiss. We thank you for your comments.

The committee will reconvene tomorrow morning at 9:30, and for now the committee stands adjourned.

[Whereupon, at 11:33 a.m., the committee adjourned, to reconvene at 9:30 a.m., Thursday, June 23, 1977.]

PART 5: IMPACT AID

THURSDAY, JUNE 23, 1977

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:00 a.m., in Room 2175, Rayburn House Office Building, the Hon. Carl D. Perkins (chairman of the subcommittee) presiding.

Members present: Representatives Perkins, Mottl, LeFante, Weiss, Corrada, Kildee, Quie, Pressler and Goodling.

Staff present: John F. Jennings, majority counsel; Nancy L. Kober, staff assistant; Christopher T. Cross, minority senior education consultant.

Chairman Perkins. The committee will come to order.

This is the third day of hearings which the Subcommittee is conducting this week on the impact aid programs. We will have three topics for discussion today. The first topic will be the disaster assistance provisions, in Public Laws 874 and 815 and the second topic will be the special problems faced by heavily impacted school districts. These two topics will be discussed by our first panel of witnesses.

The third topic which we will discuss today involves the so-called Section 6 schools. These are schools which are totally paid by the U.S. Office of Education under the impact aid laws but which are administered by other Federal agencies, particularly the Department of Defense, and our second panel of witnesses will discuss these schools today with a special emphasis upon problems existing at Fort Buchanan in Puerto Rico.

I will call on Congressman Cavanaugh to introduce Richard L. Triplett, Superintendent of Bellevue Public Schools, Bellevue, Nebraska, I will call on Congressman Pressler later to introduce Dr. Mueller, the witness from South Dakota.

We are delighted to welcome you here this morning, Congressman Cavanaugh, and you can go ahead with your statement. Following your statement I will let Mr. Triplett testify and then we will proceed to Mr. Mueller.

Without objection, all prepared statements will be inserted in the record.

STATEMENT OF HON. JOHN J. CAVANAUGH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. CAVANAUGH. Thank you, Mr. Chairman. It is a great pleasure for me to introduce to you this morning Dr. Rich Triplett, Superintendent of Bellevue Public schools, and to commend the chairman and this committee for conducting these hearings here today.

I think that without question the testimony that you will receive from Dr. Triplett will be among the most penetrating and incisive that you will receive on this subject because he is one of the most well-informed Americans I know on the question of impacted aid and, of course, the school districts of Bellevue is one of the most dependent upon that aid and so I commend to you Dr. Triplett, who is a good friend of mine, and I am sure will provide a very adequate presentation to this committee this morning.

Chairman PERKINS. Let me say to you, Mr. Cavanaugh, that you are already, as a new member, making your mark in the Congress and everybody appreciates your presence here this morning

STATEMENTS OF WILLIAM L. STORMER, DIRECTOR, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY-AFFECTED AREAS, U. S. OFFICE OF EDUCATION; RICHARD L. TRIPLETT, SUPERINTENDENT, BELLEVUE PUBLIC SCHOOLS, BELLEVUE, NEBRASKA; DR. DONALD F. MUELLER, SUPERINTENDENT, DOUGLAS SCHOOL DISTRICT NO. 51-1, ELLSWORTH AIR FORCE BASE, SOUTH DAKOTA; and DR. WILLIAM F. DUNCAN, SUPERVISING PRINCIPAL, HIGHLAND FALLS - FORT MONTGOMERY CENTRAL SCHOOL DISTRICT, HIGHLAND FALLS, NEW YORK

Mr. TRIPLETT. Thank you, Mr. Chairman.

Chairman PERKINS. You may proceed, Mr. Triplett.

Without objection, your prepared statement will be inserted in the record.

[The prepared statement of Mr. Triplett follows:]

TESTIMONY ON AUTHORIZATION FOR
RENEWAL OF PL 874 AND PL 815

By

Richard L. Triplett

Superintendent of the Bellevue Public Schools

Bellevue, Nebraska

BELLEVUE PUBLIC SCHOOLS
Office of the Superintendent
June, 1977

Mr. Chairman, distinguished members of the Sub-Committee: I want to thank you for the opportunity to testify before the Committee today. My name is Richard Triplett, and I am Superintendent of Schools at Bellevue, Nebraska.

Located within the Bellevue district are Offutt Air Force Base and Headquarters, Strategic Air Command. As a result, approximately one-third of the more than 10,000 pupils enrolled in the district are "A" pupils and another one-third are "B" pupils, practically all of whom are dependents of those employed at the Air Base. As you undoubtedly know, the parents of the "A" pupils both live and work on base. The parents of the "B" pupils work on base and reside in privately owned property within the district. Our district is one of the few in the nation which has more than a 25% impaction of "A" pupils. Such districts, the so-called Super "A" districts, receive full funding for their "A" pupils but receive the same reductions as other districts for any "B" pupils.

The PL 874 formula which provides a full rate for the "A" pupil and a half-rate for the "B" pupil has been under attack by the use of the argument that while "A" payments are justified because there is no tax base for such pupils, the "B" payments are not justified because the parents of "B" pupils pay taxes on their residences just as anyone else. The argument while persuasive, is fallacious. Local taxes throughout the nation come equally from two sources, one, the place of employment and two, the place of residence. In the case of the "A" pupil, both sources are lost to the district and the full rate is justified. In the case of the "B" pupil, one-half of the tax base is lost, namely the place of employment. Thus, the half-rate for the

"B" pupil is justified in exactly the same manner as the full rate for the "A" pupil.

If, however, it is the decision of the Congress that PL 874 funding should more properly be diverted to other educational uses, some priorities of funding must be established for the highly impacted districts and particularly for those serving military installations. The expedient way of just eliminating the "B" funding would result in economic disaster for highly impacted districts which have a high proportion of military "B" pupils, of which our district is a prime example.

Another argument that is used against "B" funding is that the economic benefit of a federal installation makes up for the possible loss of "B" funding. To counter this argument in our own case, the following data are provided.

Offutt operates or houses numerous businesses furnishing many services for military personnel, their dependents and for retirees. Among these are barber shops, cafeterias, filling stations, restaurants, bowling establishments, theater, shoe repair, cleaners and laundry, bank, golf courses, motel, pharmacies, hospital; and the commissaries and exchanges selling everything from groceries to lawn mowers and clothing. All such sales are exempt from the state sales tax. Offutt's commissaries had total sales of over $24 million and the base exchange had sales of over $14.5 million during 1976, none of which were subject to sales tax.

Due to the Soldiers and Sailors Relief Act, military personnel may maintain their legal residence in other states and thus may pay income taxes and personal property taxes to their home state. Thus the apparent wealth in terms of income and personal property held by the non-residents in the uniformed services is generally not taxable by the state of Nebraska or the local sub-divisions of government. For instance, of the 60,000 automobiles registered in Sarpy County, 22,000 carry non-residence license plates and are taxed in the state of residence. This represents a loss of more than $ 2 million dollars per year to the local taxing agencies in the county, assuming an annual tax of $100 per vehicle.

The exercise of the principle of exclusive jurisdiction by the Air Force over the base has the effect of denying to the district a share in the personal and business property taxes that normally in Nebraska would be assessed against privately owned property on the base. (Utilities, leased computers, etc. are estimated at a value of several million dollars). Bellevue is the only district in Nebraska in which the principle of exclusive jurisdiction is applied.

There are eight Nebraska districts which serve the dependents of personnel working at Offutt, all in the Omahe area. Of these eight districts, three are immediately adjacent to, or encompass, the base and are highly impacted. Five are further removed from the base and are more lightly impacted. For this purpose, a highly impacted district is defined as one with a relative impact of more than 10%, counting an "A" pupil as one pupil, a "B" pupil as one-half pupil and dividing the sum by the total enrollment.

The three districts immediately adjacent to Offutt, the districts with more than 10% relative impact, display the following characteristics as compared with the five districts which each have less than 10% relative impaction.

Assessed Valuation Per Pupil - (1974-75)

The average assessed valuation per pupil for five lightly impacted districts is $19,255 as compared with $6,963 for the three highly impacted districts, almost three times greater. For the state, the average is $22,010 per pupil.

Millage Rates - (1976-77)

The average millage rate for the five lightly impacted districts is 63.93. For the three highly impacted districts it is 80.20. Approximately

25% greater. For the state as a whole the average is 40.00 mills.

Cost Per Pupil - (1974-75)

The average cost per pupil for the lightly impacted districts is $1,209, for the highly impacted districts $973. Thus, the lightly impacted districts expend at a level of 24% greater than the three highly impacted districts. The state average cost is $1,274 per pupil.

Pupil/Teacher Ratio - (1974-75)

For the lightly impacted districts, the average pupil/teacher ratio is 19.1. For the highly impacted districts, the pupil/teacher ratio is 20.0. Thus, the highly impacted districts place five percent more pupils in each classroom.

It is apparent that any positive effect which may exist from the economic benefit resulting from the presence of the federal installation is not reflected in the financial data for the highly impacted districts. Under the current level of reducing funding, the three highly impacted districts have a much lower level of available resources upon which to tax, they make a much greater effort in terms of mills levied, their costs per pupil are much lower and they place more pupils in each classroom than their more lightly impacted neighbors which also serve the base. The only apparent conclusion is that the highly impacted districts are least able to absorb any proposed reduction in PL 874 funding. Further reductions would either further increase an already inequitable tax load, or decrease the level of education offered. It is, however, apparent that the lightly impacted districts have a less favorable financial structure than the average district in the state. Thus, even the lesser degree of impaction apparently causes a negative effect upon school finance measures.

Of the 297 unified districts in Nebraska, 30 or approximately 10% are PL 874 recipients. Of the 30 recipients, eight have a relative impact of more than 10%. Of the highly impacted districts, three are immediately adjacent to Offutt, and are those previously referred to, the other five serve Indian reservations which obviously also lack a tax base because of the federal or tribal ownership of real property in the districts. In the case of our own district, the base owns 18% of the land area of the district. In summary:

(1) The "B" funding can be justified on the same philosophical and economic basis as can the "A" funding.

(2) In the event further reductions in funding are implemented,

  (a) Full funding should be provided districts with a high relative impaction. In Nebraska, at least, the distinction between high and low relative impaction is at 10%.

  (b) Full funding should be provided for districts which serve military installations because of the effect of the Soldiers and Sailors Relief Act, the operation of tax-free on-base services and the application of the principle of exclusive jurisdiction.

  (c) A distinction in funding levels should be made between civilian "B's" and military "B's", with a higher priority established for military "B's".

  (d) Provisions should be made for an in-lieu of tax for the land area which is occupied by the federal installation when such ownership exceeds 10% of the district's total area.

  (e) It is doubtful that any formula can be applied equitably to those few districts which are severely impacted, those with a relative impaction of greater than 40%, for example. For such districts, a budget balancing provision should be written into law which allows the U.S. Commissioner of Education the authority to provide the necessary federal funds when local effort is equal to other comparable non-PL 874 districts.

(f) The current low level of funding is not sufficient for the eight highly impacted districts in Nebraska to provide an adequate education at a comparable cost.

(g) Only if the provisions outlined above are included in the legislation, or some others which accomplish the same purpose, will highly impacted districts be able to avert a financial crisis in the event that further reductions are made in PL 874 funding.

Mr. Chairman, I would like to add a comment on PL 815.

This program has received only minimal funding since 1970. Our district has had an approved application that has remained unfunded since 1969.

During the past several years, PL 815 funds have been used for rebuilding school buildings damaged or destroyed by natural disasters. These funds have not been replaced although I believe it was the intent of the Congress to restore them through a supplemental appropriation when they were temporarily allocated for the emergency use.

It appears that the net effect has been to divert PL 815 funds from their lawful use to the disaster programs.

I would hope that the legislation on PL 815 would clarify that the PL 815 funds are to be expended for school building construction in impacted districts only.

IMPACT AID AND THE BELLEVUE PUBLIC SCHOOLS

1976-77

1.	Total Enrollment (third largest of 297 unified districts)			10,260	100.00%
2.	Number and Percent "A" Pupils			3,687	35.9%
	" " " "B" Military			2,606	25.4
	" " " "B" Civilian			646	6.3
	" " " Non-Federal			3,323	32.4
3.	Entitlement Tier III			$ 5,014,325	
	"A"			3,514,773	
	"B" Military			1,236,440	
	"B" Civilian			263,112	
4.	Anticipated Receipts - Tier II			$ 4,574,330	
	"A"			3,514,773	
	"B" Military			741,804	
	"B" Civilian			148,227	
	Hold-Harmless (Est.)			169,526	
5.	Unfunded			$ 440,443	
6.	Percent Unfunded of Entitlement			8.8%	
7.	Loss in tax base based on number of pupils			52.25%	
	"A" Pupils	35.9%	=	35.9%	
	"B" Military	25.4% ÷ 2	=	12.7%	
	"B" Civilian	6.3% ÷ 2	=	3.65%	
8.	Percent of District's Land Area Owned by Federal Government			18.0%	
9.	Assessed Valuation of District			$ 65,000,502	
10.	Assessed Valuation/Pupil			$ 6,335	
11.	State Average Assessed Valuation/Pupil			$ 22,010	
12.	Range in State of Assessed Valuation/Pupil (297 districts)			$ 5,000 - 60,000	
13.	Rank of Bellevue in Assessed/Valuation/Pupil			296 of 297	
14.	Total Local Effort in Mills - Bellevue			64.00	
15.	State Average Local Effort in Mills (of 297 unified districts)			40.00	

16. State Average Cost Per Pupil $ 1,274

17. Bellevue Cost Per Pupil (1975/76) $ 1,063

18. Of the 297 Unified Districts in Nebraska, 8 have a relative impaction (all of "A" pupils plus one-half of "B" pupils, divided by total enrollment) of more than 10%.

	(1)	Macy	87.98%	Serves Indian Reservations
	(2)	Winnebago	83.58	Serves Indian Reservations
*	(3)	Bellevue	51.77	Serves Offutt AFB
	(4)	Niobrara	48.43	Serves Indian Reservation
*	(5)	Papillion	17.08	Serves Offutt AFB
*	(6)	Plattsmouth	12.49	Serves Offutt AFB
	(7)	Walthill	11.98	Serves Indian Reservation
	(8)	Decatur	10.37	Serves Indian Reservation

* Serves Offutt AFB

19. Of the eight districts serving Offutt, three, Bellevue Papillion and Plattsmouth, are immediately adjacent to or encompass Offutt and have more than 10% relative impaction. The other five districts are less than 10% relative impaction and are further removed from the base.

	Average Assessed Val. Per Pupil	Average Millage	Average Cost Per Pupil	Pupil/Teacher Ratio
Three High Impact	$ 6,963	80.20	$ 973	20.0
Five Low Impact	19,255	63.93	1,209	19.1
State Average (297 Dist.)	22,010	40.00	1,274	18.0

The three highly impacted districts have only 36% of the tax base per pupil of the five lightly impacted districts, they exert 25% greater effort in terms of mills levied, they expend at only 80% of the level of the lightly impacted districts and they place 5% more pupils in a classroom.

The five more lightly impacted districts also show the effects of impaction. They have fewer resources per pupil higher millage rates, lesser costs per pupil and larger pupil/teacher ratios than the averages of the 297 unified districts in the state. Thus, the economic benefits from serving a military installation are not reflected in the financial data for the eight districts. It is apparent that the greatest effect is felt by the highly impacted districts.

STATEMENT OF RICHARD L. TRIPLETT

Mr. **Triplett**. I would first like to thank Congressman Cavanaugh for those very kind words. He has provided us with a great deal of support, as we have attempted to solve some of the problems of the impact aid program.

I would also like to express my appreciation for the opportunity to be here today to offer testimony on behalf of the Federal impact program.

I am Superintendent of schools of Bellevue, Nebraska. Our disrtrict does serve Offutt Air Force Base which is, of course, the headquarters of the Strategic Air Command. Approximtaely 70 percent of our enrollment of 10,250 students are dependents of those that are employed at the Air Base. Half of these are Category A students and the other half are categorized as B students. All of the students are children of military personnel with the exception of about 690 students who are children of Civil Service employees.

I would like to take this opportunity to elaborate on three very important points that I feel the subcommittee membership should give consideration to as it begins its review of the authorizing legislation for Public Law 874 and 815.

First, I would like to point out that the B funding can be justified on the same philosophical and economic basis as can the A funding and I would like to cite several examples.

First, 18 percent of the land mass in the Bellevue District is off of the tax rolls. This is a place where both Category A and Category B-type families are employed.

Second, the effect of the Soldiers and Sailors' Relief Act is, of course, to allow those who are in the uniformed services, again irrespective of whether they are Category A or Category B-type students, to pay their income taxes and personal property taxes in the state of their legal residence.

If I may cite a couple of examples: The Offutt payroll in 1976 was approximately $207 million. Although the payroll does have a positive economic effect when spent in our community, the reality of the situation is that a large percentage of the state income taxes that are paid are paid to a state other than Nebraska.

With respect to an example of the personal property tax, there are 60,000 automobiles registered inside the county. 22,000 carry non-resident license plates. Thus there's more than $2 million in local taxes that are not collected by the local taxing agencies of the county again due to the provisions that are contained within the Soldiers and Sailors Relief Act.

Mobile homes also fall into this same classification. A major portion of what is earned by military families is spent on the base. The sales at the base exchange and commissary exceeded $38 million in 1976, none of which was subject to our state and local sales tax. If you apply the 4 percent sales tax times the $38 million worth of sales, it is a tax loss of $1,500,000 which is the net result, and I think again it is important to point out that the sales, of course, are made to both Type A families as well as Type B families.

The last local resource consideration that I would like to bring to your attention or that has an effect upon our local resources is the principle of exclusive jurisdiction. The exercise of the principle of exclusive jurisdiction by the Air Force with respect to Offutt Air Force Base removes privately-owned property from taxation. Thus utilities, such as the telephone company, leased computers, of which there are a number at Offutt, all having a valuation in terms of millions of dollars, are removed from the tax rolls.

Our county assessor in 1973 placed an estimate on that type of equipment. It was approximately $70 million; applying our local millage times that figure it results in a $4.5 million tax loss to our community.

Thus the argument that the economic impact is shown in our district certainly is not substantiated as applied to the Bellevue School. In fact, our district remains the least able in the state to finance an adequate educational program for our residents. Our per pupil cost is $2300 less than the state average. Our millage is 20 mills higher than the state average. Our present loss due to a prorated impact bill is the equivalent of 7 mills and if the B section of the program were to be completely eliminated, it would increase our millage by an additional 13 mills if all of that money was to be picked up locally.

Our local taxpayers cannot afford and will not in any way subsidize the Federal government to this degree.

My second major point has to do with degree of impaction. Degree of impaction is an important factor when the authorizing legislation is not fully funded, a situation which we have experienced since 1969.

When the Federal Government chooses not to honor its financial obligations to the servicing districts in accordance with the authorizing legislation, it becomes very obvious to us that a priority system must be built in that has the effect of channelling funds—first channelling funds to school districts having the greatest need. I am sure that the research will bear me out when I say that there is a direct correlation between the degree of impact and the availability of resources at the local level to provide an adequate program for our youngsters.

My third and final point has to do with Public Law 815. This program has received only minimal funding since 1970. Our district has had an approved application that has remained unfunded since 1969. During the past several years Public Law 815 funds have been used for rebuilding school buildings damaged or destroyed by natural disasters. These funds have not been replaced although I believe it was the intent of the Congress to restore them with a supplemental appropriation when they were temporarily allocated for emergency use.

It appears that the net effect has been to divert Public Law 815 funds from their lawful use to disaster programs. I would hope that the legislation on Public Law 815 would clarify that P.L. 815 funds are to be expended for school building construction in impacted districts only.

I thank you.

Chairman **Perkins**. Thank you very much for your testimony.

Our next witness is going to be Dr. Mueller, Superintendent of Douglas School District No. 51-1, Ellsworth Air Force Base, South Dakota.

Chairman **Perkins**. Congressman Simon, did you want to say something before we hear from Dr. Mueller?

Mr. **Simon**. I would like to enter into the record a letter from the Superintendent of the Zeigler-Royalton Community Unit School District and also a statement by Dr. Remo Castrale, Superintendent of the Johnston City School District regarding coal mine subsidence problems.

I will also be submitting some questions to Mr. Stormer and I will then submit his answers also for the record.

[The information follows:]

ZEIGLER-ROYALTON COMMUNITY UNIT SCHOOL DISTRICT NO. 188

ACCREDITED BY
NORTH CENTRAL ASSOCIATION OF SECONDARY SCHOOLS

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ROYALTON ELEMENTARY AND
JUNIOR HIGH BUILDING
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J-1

June 14, 1977

The Honorable Paul Simon
Room 227, 2nd Floor
Cannon House Building
Washington, D. C. 20000

Re: Pinpoint Disaster Program as it applies to Zeigler-Royalton School District #188, Franklin County, Illinois.

Dear Congressman Simon:

The Zeigler-Royalton Community Unit School District #188, Franklin County, Illinois has lost two school buildings due to mine subsidence, one in 1962 and one in 1976. In both disasters the United States Government has not been able to build a new school building here. Why?

This school district was informed that under the present Pinpoint Disaster Program, the Federal Government would only provide a loan repayable in five (5) years at 6 5/8% interest to construct a new building. This school district cannot afford this type of loan.

The present Pinpoint Disaster Program is not practical for a school district which finds itself in emergency need of a new school building.

I hope that you understand that this present Pinpoint Disaster program is an unacceptable solution to our problem.

The Board of Education and community thought that the U.S. Government would give this school district a grant to construct a new school building due to our disaster emergency need. Our U. S. Government gives foreign countries foreign aid for various purposes, but cannot directly help a school district in this country for legitimate reasons. Why?

I see nothing wrong with Federal Tax Dollars staying in this country for such disaster construction purposes. Priorities need to be examined and held accountable to we, the people.

Sincerely,

George Connor

George Connor, Superintendent
Zeigler-Royalton Community Unit
School District #188
Zeigler, Illinois 62999

GC:sf

Johnston City Progress

"Johnston City's Own
Hometown Newspaper"

An Edition Of The Williamson County Observer

Volume [illegible] — Number 11 Herrin — Carterville — Johnston City, Illinois, Wednesday, May 11, 1977 Single Copy Price 15c

Mine Subsidence Problems Presented By Dr. Castrale

By Wilma B. Roth

Dr. Remo Castrale, superintendent of the Johnston City School District No. 1, was invited by the Illinois Environmental Council to make a presentation on mine subsidence at a conference on Energy Planning, May 4, at the St. Nicholas Hotel in Springfield.

"Problems of mine subsidence and its implications for state and federal governments," was the title of the paper presented by Dr. Castrale, along with a slide presentation, which he had prepared pertaining specifically to difficulties sustained by the local school district.

Following his presentation before the council, Dr. Castrale appeared on NBC television, Channel 20, in Springfield that evening. He was interviewed on problems relative to subsidence and a series of slides depicting the area were shown.

Dr. Castrale has also released this paper to several legislators, as there have recently been four bills sponsored on subsidence and reclamation.

Since the subsidence problem is one which affects this area, having been the cause of several school closings, we are publishing the paper as presented by Dr. Castrale to the IEC.

Subsidence can be defined as a caving in of the earth above underground areas that have been mined out and are now abandoned. Subsidence is a danger in the mining of minerals, such as coal, salt, zinc, clay, copper, potash, uranium, etc. Subsidence also occurs from natural causes such as voids created in limestone formations. But most of the subsidence that has caused extensive damage in urban areas has occurred in coal mining regions.

Coal has been a major source of energy in our country for many years. Before oil and gas came on the scene, coal was the leading energy source in the United States. And even today, it is still a most important natural resource. Many years ago, before the advent of the kind of technology that now exists in coal mining, mines that played out were abandoned without the knowledge that they might offer possible danger of subsidence in the future.

According to a report published by the Dowell Division of the Dow Chemical company, more than 8,000,000 acres of land in the United States has been mined out. And of this, at least 2,000,000 acres have subsided, most in rural areas. But nearly 160,000 acres of these subsided acres have been in urban areas.

When the supports in a mine prove unable to carry the weight of the overburden of the earth above it, then the supports collapse into the mined out area, and the surface of the earth above this area also drops. The results of all this on the surface produces severe damage to property that is so great that more often than not buildings and homes must be completely abandoned. Repairs can be only temporary at best because once subsidence starts, no one knows when it will end. And once it begins, it usually cannot be stopped by artificial methods.

Coal mine subsidence can also be described as the resettling of the ground over a coal mine resulting in various degrees of surface movement. Thomas O. Glover, Liaison Officer of the Bureau of Mines, U. S. Department of Interior, reports that subsidence may take place in a series of episodes followed by a period of time during which the ground is apparently stable. Subsidence is completed when the mine opening is fully closed, but remains a possibility as long as the mine opening remains. Subsidence occurs from both active as well as abandoned mines.

Dr. W. Calhoun Smith, Geologist in Charge of Engineering Geology and Topographic Mapping Section, Illinois State Geological Survey states that subsidence is total or complete when the mine opening has been reduced to zero, and several episodes of subsidence may be required for this point to be reached. Once an episode of subsidence has started, there is no practical way to stop it in time to prevent damage to the structures at the surface.

From my own personal point of view based upon our school district's and community's experiences with mine subsidence, I must agree with the statement presented to the House Executive Subcommittee on Mine Subsidence by Dr. George T. Stubblefield, Jr. who stated, "I would define it as sheer hell. There are many more factors and ramifications that enter living through this than in a definition.!'

As mining operations have expanded and surface structures have increased in value, public concern about subsidence has increased. Today, the effects of subsidence are being felt by many property owners, especially those in Southern Illinois. Homes and other structures resting above or near land atop underground mines have been seriously damaged by coal mine subsidence. Entire structures have dropped or shifted as underground mines have collapsed. Foundations and walls have cracked and many structures have been abandoned. Additionally, water mains, sewage pipes, and gas lines have broken causing communities great hardship and economic loss.

Damage for individual homeowners may amount to several thousand dollars in reconstruction costs and even more in decreased property value. Subsidence is not limited solely to homeowners for it can strike commercial businesses and public structures such as schools. (Harmony-Emge in St. Clair County; Zeigler High School and Leiter School in Franklin County and the two Washington Schools in Johnston City, Williamson County.) Since 1970, subsidence has affected scores of structures and cost millions of dollars.

The problem of mine subsidence has increased in the past few years because of the aging and deterioration of all abandoned coal mines and because of the expansion of suburban growth outside of city limits into undermined areas.

It is imperative that both State and Federal governmental agencies become actively involved in research and pilot projects evolving around mine subsidence in an effort to determine:

1. The incidences of mine subsidence;

2. The causes of mine subsidence;

3. The general effects of mine subsidence;

4. The methods for preventing or lessening the extent of property damage or for stabilizing land affected by mine subsidence;

5. Whether the state should regulate or provide the insurance programs for the property owner in the area of mine subsidence.

Illinois legislators such as Representative Monroe Flynn and Representative Celeste Stiehl conducted public hearings in Belleville and Marion, Illinois in August, 1976 in an effort to secure information from witnesses about problems caused by mine subsidence. The main purpose of these hearings was to investigate possible legislative action to deal with the increasing problem of mine subsidence in coal mining regions. As a result of these hearings, legislation has now been proposed which addresses itself to these problems of mine subsidence and to a proposal for making insurance coverage available to property owners for damages resulting from mine subsidence. At the present time, property owners who recognize and fear potential subsidence problems cannot obtain insurance to protect against subsidence because it is simply not available. If subsidence does occur, property owners have no recourse or remedy. No state or federal funds are available to mine subsidence victims not even special low interest loans.

As a result of the mine subsidence problems experienced by our school district and community, I would recommend that state agencies such as the Capital Development Board and the Illinois Office of Education become more aware of mine subsidence and its implications for school construction especially in geographic areas where subsidence could present a problem.

School districts located in these geographic areas should have available from these and other agencies technical services and funds for planning assistance grants to aid local boards of education and school officials in making responsible and prudent decisions relative to immediate and future building needs. Furthermore, it is essential that these state agencies become actively involved in assisting these school districts in the decision-making process relative to the identification of possible school sites; site selection; and special structural designs to be incorporated in the construction of the building. We are all a part of the mine subsidence problem and therefore we should all become a part of the solution of this problem.

Remember mine subsidence is an underground disease that has brought vast amounts of destruction to cities, towns, farmlands, rivers and streams. But it is also a story of the hope that this disease can be halted before it does any further damage; that modern technology can and will save the day for those communities affected by the ravages of SUBSIDENCE.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

JUL 26 1977

Honorable Paul Simon
United States Congress
Washington, D.C.

Dear Mr. Simon:

Thank you for your letter of June 29 submitting questions on pinpoint disaster assistance to be answered for the record.

We have provided answers that one hopes are helpful in the enclosures.

Sincerely yours,

William L. Stormer
Director, School Assistance
in Federally Affected Areas

Enclosure

Question: Legislation authorizing "pinpoint disaster" assistance to schools was enacted January 2, 1966, and yet regulations were not issued to implement the law until November, 1976. Why did the Office of Education fail to implement this law for nearly nine years?

Answer: Until the Comptroller General's opinion was issued in 1975, the "pinpoint" disaster provisions were not planned to be implemented. The following include the principal reasons for nonimplementation of the program: (1) uncertainty as to what the program might cost; (2) difficulty in distinguishing between the types of losses eligible for grants under P.L. 874 from those eligible for loans under P.L. 815; (3) problem in defining "negligence and malicious action" causing ineligibility; (4) shortly after the authorizations were enacted, a survey indicated that local school districts in 29 States could not accept loans, and potential barriers existed in some other State laws with respect to the ability of local education authorities to borrow from the Federal Government; (5) the question of the Federal Government supplanting the operation of private insurance of school property.

Question: When regulations were issued in November, why was the effective date for application purposes established as July 1, 1975?

Answer: The Comptroller General of the United States rendered his opinion on June 30, 1975 that the Pinpoint Disaster Program should be implemented. It was believed at that time that the program should be immediately implemented thereafter, thus the effective date for application purposes was set at July 1, 1975. After further consideration of this matter, as requested by the General Accounting Office, the Office of Education revised its position and plans to publish a notice in the Federal Register on or about August 1 making the program retroactive to January 2, 1968, the enactment date of the enabling legislation.

Question: Could you explain the grant and loan provisions of the "pinpoint" law and how they apply to a local school district?

Answer: Under Section 16 of P.L. 815, School Construction Assistance in Cases of Certain Disasters, pinpoint disaster assistance for the restoration or reconstruction of a seriously damaged or destroyed school facility shall be in the form of a repayable advance (loan) subject to such terms and conditions as the Commissioner considers to be in the public interest. ("In all cases determined pursuant to clause (1)(B) of this subsection... such assistance shall be in the form of a repayable advance...") Per regulation (45 CFR 112.3(c)) the loan period is not more than 5 years at the prevailing rate set by the Small Business Administration for disaster assistance. Under Section 7(c) of P.L. 874, Assistance for Current School Expenditures in Cases of Certain Disaster, pinpoint disaster assistance to school districts is in the form of a grant--paid in advance or by way of reimbursement and in such installments as the Commissioner may determine.

Question: I understand that you currently have a tremendous backlog of applications for assistance under the pinpoint law, and that after more than nine years, the Office of Education has yet to approve aid under the pinpoint provision. You mentioned in your testimony that you are currently investigating the resources that are available to the Commissioner for funding those requests. If the backlog is so great, and since this is obviously an emergency situation for many districts, why haven't you asked the Congress for an emergency appropriation to fund eligible districts?

Answer: The greatest portion of disaster assistance to local educational agencies is rendered under Section 7 of P.L. 874. Up to FY 1977, appropriations for this Act, made available on the basis of estimated needs, usually provided more than sufficient amounts to fund the sections of the law to the limits allowed in the appropriations laws. Therefore, the monies in excess of that needed for regular provisions of the law were used to fund major disaster assistance. In FY 1977, however, the appropriation for P.L. 874 is not sufficient to fund regular entitlements for payments under Sections 2, 3, 4 and 6, and also to fund eligible major and pinpoint disaster claims.

Disaster assistance requirements for a given year are difficult to anticipate. Therefore, Section 7(c) of the Act authorizes the expenditures of monies to meet these needs to occur from any available appropriation. Since this is the first year that sufficient P.L. 874 funds have not been available to cover the disaster requirements, monies are being reprogrammed to fund eligible applications. Subsequently, the Office will request a supplemental appropriation to replace funds used where it is believed that they must be restored.

Under P.L. 815, Section 16, the requirements for disaster aid, to date, have been met from the P.L. 815 appropriations but school construction assistance authorized under other sections of the Act has remained unfunded. The Division of School Assistance has initiated requests to replenish funds for the sections of the Act from which disaster assistance has been obtained.

Question: What recommendations do you have for improving this "pinpoint" disaster program?

Answer: Under Section 16 of P.L. 815, we would recommend that the law be changed to provide pinpoint disaster assistance in the form of a grant, as in the case of major disaster assistance and in order to be comparable to P.L. 874, Section 7. Generally, both programs of pinpoint and major disaster assistance, should operate under the same rules and regulations. Similarly, disaster aid authorized under P.L. 815 and P.L. 874 should be comparable. In addition, we would recommend that the minimum eligibility requirement under each law, that is, the lesser of a loss of $1,000 or one half of one percent of current operating expenses, should be increased to a figure more in line with today's conditions.

Question: Should every conceivable disaster be spelled out, or is it better to leave this law to the discretion of the Commissioner?

Answer: We do not believe that every conceivable disaster need be spelled out. The wording on the definition of what constitutes a disaster is adequate in both P.L. 815 and P.L. 874. We have no problem with this aspect of the laws.

Question: In your understanding, what types of disasters would qualify for "pinpoint" relief?

Answer: Any catastrophe resulting in destruction or serious damages to public elementary or secondary school facilities and not caused by negligence or malicious action would qualify for pinpoint disaster assistance.

Question: Are you aware that it is usually impossible for a school district to buy any type of insurance against mine subsidence in coal mining areas?

Answer: We are aware that it is usually impossible for a school district to buy insurance against mine subsidence damage. Where this situation prevails, the requirement for full valuation insurance coverage to include losses as a result of mine subsidence is waived.

Mr. **Quie**. What has coal mine subsidence to do with this?

Mr. **Simon**. It will have to do with testimony we will have a little later on this morning with regard to Mr. Stormer's testimony.

I might take just one minute from my colleague from South Dakota to say there is a very real problem in coal mining areas with the mine sinking and then you end up with a school district—and these tend to be poor areas—all of a sudden you have a school that can't be used, a school that has no ability, financial ability, to build a new school.

What the Federal government now provides is a five-year loan that they could never repay, so we have some very severe problems in a relatively small number of schools right now across the Nation, but that number could grow in the years ahead and I think we should face up to the problem.

Mr. **Quie**. It isn't a question of the school falling into the mine; it is a question of the tax base that is going down.

Mr. **Simon**. It is the school that is falling into the mine. In other words, there is a huge crack in the school and the architects and safety people say you can't use the school any more. They haven't a lot of money and can't replace the school.

Mr. **Pressler**. I would like to present Dr. Donald Mueller, a longtime South Dakota resident, and Superintendent of the Douglas School District representing Ellsworth Air Force Base. He has been with the Douglas schools for 16 years. I would also like to recognize Merlin Stromer, who serves as Vice President for the Board of Education of Douglas School. He ranches near Ellsworth Air Force Base and is here today also. I am very proud to present Dr. Mueller who will tell the great problems that are occurring at the Douglas School District near the Air Base.

Chairman Perkins. Without objection, your prepared statement will be inserted in the record.

[The prepared statement of Dr. Mueller follows:]

DOUGLAS SCHOOL DISTRICT NO. 51-1

Ellsworth Air Force Base
South Dakota 57706

DATA ON THE EFFECTS OF PUBLIC LAW 81-874 IMPACT AID

SUBMITTED IN TESTIMONY

TO THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

Board of Education

Beverly A. Brown, President
Merlin Stromer, Vice President
Holsey E. Nelson, Member
Robert J. Krejci, Member
David L. Murphy, Member
Col. B. J. Kirkland, Associate Member
SMSgt. Robert H. Sambom, Associate Member
SMSgt. Horace Threats, Associate Member

Donald F. Mueller, Superintendent
Alpha L. Braunesreither, Business Manager

June 23, 1977

FOREWORD

The following information is provided the Subcommittee on Elementary, Secondary and Vocational Education in preparation for hearings concerning Impact Aid on June 21, 22, 23 and June 28, 29, 30.

This material is presented to apprise the Committee of the importance of Impact Aid to Douglas School District 51-1, Ellsworth Air Force Base, South Dakota. Four areas are addressed in the content that follows.

1. Enrollment data and degree of impaction.
2. Sources of district revenue and their limitations.
3. Problems associated with the provisions of P.L. 874.
4. Data supporting the continuation and full funding of Impact Aid.

It is the desire of the Douglas Board of Education to provide a viable educational program for the students of this district. Consequently, there is an urgent need to resolve the financial uncertainty that limits the District's ability to implement and maintain an educational program comparable to other South Dakota districts of similar size.

The Douglas School District is a highly impacted district with more than 80% of its student population consisting of dependents of military personnel assigned to Ellsworth Air Force Base, South Dakota. The following table provides a summary of students in Average Daily Attendance, by category for the past four years.

TABLE I

ENROLLMENTS
DOUGLAS SCHOOL DISTRICT 51-1
BASED ON
AVERAGE DAILY ATTENDANCE

Year (1)	3A (2)	3B (3)	Sub Total (4)	Non-Federal (5)	Total (6)
1973-74	2,208 *76.33%*	240 *8.29%*	2,448 *84.62%*	445 *15.38%*	2,893
1974-75	1,970 *72.37%*	285 *10.47%*	2,255 *82,84%*	467 *17.16%*	2,722
1975-76	1,975 *71.45%*	289 *10.45%*	2,264 *81.91%*	500 *18.09%*	2,764
* 1976-77	1,980 *71.45%*	285 *10.27%*	2,265 *81.74%*	506 *18.26%*	2,771

* Projected

With this degree of impaction, the Douglas School District relies heavily on P.L. 874 for a major part of its educational revenue.

While more than 70% of the students are in the 3A category (parents live and work on Federal property), the school district also is dependent on revenue provided by 3B students and other minor sections of the law.

Recent proposals by the House and Senate Budget Committees to phase out Impact

Aid support for the "B" category students represent a significant loss of revenue. While the District presently has a limited number of "B" students (approximately 10% of the student population), which under the present proration provides about four per cent of the District's revenue, the number of students in this category is expected to increase substantially in the next two years.

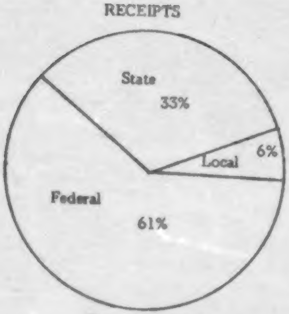
A confirmed increase of 653 military personnel assigned to Ellsworth Air Force Base will result in an increase of military "B" category students. Since On Base housing is not available, many of these families will reside in low-cost housing and mobile homes near Ellsworth Air Force Base and in the school district. Considerable new construction in anticipation of this need for additional housing and normal growth in the area, has already been started. Unfortunately, the assessed value of this type of housing falls considerably short of providing sufficient revenue for educational services.

Consequently, the loss of Impact Aid for "B" category students would result in additional financial limitations for the District.

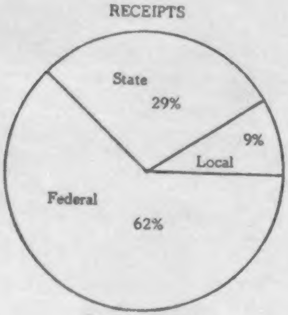
The figures and table on the following pages provide a comparison of local, state and federal financial support for the Douglas School District during the last four years.

COMPARISON OF STATE, LOCAL AND FEDERAL SUPPORT

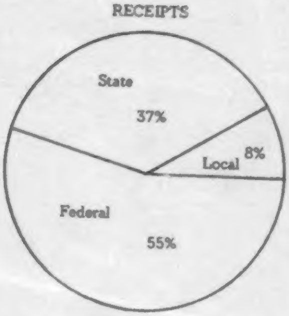
FIGURE I



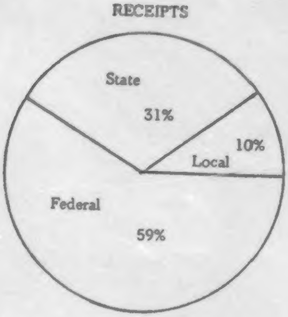
Fiscal Year 1974



Fiscal Year 1975



Fiscal Year 1976



* Fiscal Year 1977

* Projected

SOURCES OF REVENUE *TABLE II*

(1)	State (2)	Local (3)	Federal (4)	Total (5)
FY 74	$ 831,126 *33.1%*	$154,680 *6.2%*	$1,523,769 *60.7%*	$2,509,575
FY 75	767,072 *28.9%*	250,115 *9.4%*	1,635,298 *61.7%*	2,652,485
FY 76	1,041,636 *36.4%*	222,248 *7.8%*	1,538.582 *55.8%*	2,802,466
*FY 77	939,544 *31.4%*	302,010 *10.1%*	1,746,961 *58.5%*	2,988,515

*Projected

Since local and state financial support is already at the maximum limit established by law, it is apparent that Federal revenue provided by P.L. 81-874 is vital to the operation of the district.

As one of the most heavily impacted districts in the United States it is essential that all sections of the law be maintained. The loss of any section or category would create serious financial problems for the Douglas School District. The following table provides an indication of this need.

BREAKDOWN OF FEDERAL RECEIPTS BY CATEGORY

TABLE III

Year (1)	3A (2)	3B (3)	Section 2 (4)	3(c)(4) 3(d)(2)(B) (5)	Hold Harmless (6)	TOTAL (7)
1973-74	$1,204,724 *79.1%*	$44,768 *3.0%*	$133,783 *8.7%*	$140,194 *9.2%*		$1,523,769
1974-75	1,207,531 *73.8%*	61,143 *3.8%*	132,628 *8.1%*	233,996 *14.3%*		1,635,298
* 1975-76	1,347,816 *87.5%*	57,304 *3.8%*	119,365 *7.8%*	?	$14,097 *.9%*	$1,538,582
** 1976-77	1,467,496 *84.0%*	62,196 *3.6%*	132,628 *7.6%*	84,641 *4.8%*		1,746,961

* No Final Payment as of June 15, 1977
** Projected

The previous table also identifies several other problems associated with impact aid funding. As indicated in the 3(d)(2)(B) category for 1975-76, the District has not received a final payment for FY76. This section normally provides a significant part of each year's revenue from Federal sources. It is not uncommon to receive this payment twelve to fifteen months after the close of the fiscal year.

The table also reflects the necessity of projecting Federal Revenue for the 1976-77 school term at a time when the District's budget for 1977-78 is being developed, and personnel commitments must be made. As many as five variables are involved in the process of projecting impact aid funds - any one of which may substantially affect the total mount ultimately received.

The Douglas School District has acquired some degree of stability with the provision that allows 100% funding for category "A" pupils through Tier II. However, despite this support the district is unable to provide a comparable educational program for its students. The following tables illustrate this fact.

TABLE IV

COMPARISON OF STATE AVERAGE PER PUPIL COST WITH THE DOUGLAS SCHOOL DISTRICT

	State Average Per Pupil Cost	Douglas Per Pupil Cost	Difference
(1)	(2)	(3)	(4)
1974-75	$1,007.10	$ 904.89	($102.21)
1975-76	$1,130.43	$1,002.76	($127.67)
*1976-77	$1,238.75	$1,078.75	($160.25)
*Projected			

It is generally accepted that public education is the responsibility of the State; however, the State of South Dakota, as well as most other states, does not provide sufficient revenue to fully fund education. In South Dakota a major part of the support must come from taxes levied against private property within each district.

Local Boards of Education have the responsibility to provide educational services for children in the district, but have only the authority to finance education to the extent that property values of the district will allow. The Douglas School District assesses private property at maximum rates permitted by law. However, since a major part of property in the district is owned by the Federal Government, the local tax base is very limited and the tax burden is assumed by a minority of the total population.

COMPARISON OF ASSESSED VALUATION
PER SCHOOL AGE CHILD (5-18)
STATE AVERAGE AND DOUGLAS SCHOOL DISTRICT

TABLE V

Year Ending (1)	State Average (2)	Douglas (3)
1976	$20,408	$2,155
1977	22,510	2,279

PUPIL RATIO FOR CERTIFICATED PERSONNEL

TABLE VI

(1)	State Average (2)	Comparable Districts (3)	Douglas (4)
1974-1975	16.17	18.73	22.39
1975-1976	15.82	19.16	24.35

Tables IV, V and VI provide a clear indication that Federal support in the form of impact aid is needed by the District for general fund maintenance and operation. The Douglas School District has the lowest assessed value per school age child in South Dakota. Its pupil teacher ratio for the 1974-75 and 1975-76 school terms was the highest in the State and, perhaps most important, is the fact that the District's per pupil cost has been consistently among the lowest in South Dakota.

CONCLUSION

As cited and substantiated in the previous data, Douglas School District 51-1 is unable to provide a level of educational services equivalent to that maintained in comparable districts in the State. This situation is of increasing concern to the Douglas Board of Education, parents of our civilian and military communities and educators.

The annual uncertain status of Impact Aid precludes sound fiscal management and educational planning. It has become virtually impossible to develop and adopt a budget and related educational program with any degree of accuracy and confidence. Financially, the District is confronted with a declining trend which must be reversed if it is to remain operational and provide a meaningful educational program. This can only be corrected by cooperative action of both State and Federal agencies.

Based on the information provided in this report, it is apparent that as a highly impacted school district, the Douglas School System needs the financial support of Federal Impact Aid as much now as when the legislation was originally passed. Your support in this regard is respectfully requested.

STATEMENT OF DONALD F. MUELLER

Dr. MUELLER. Thank you, Mr. Chairman and Mr. Pressler.

The comments I will make will be very brief and will be with regard to the information already submitted in writing in the testimony that has been provided.

I would like to identify some of the characteristics that contribute to the uniqueness of the school district that I represent and who is a large recipient of Public Law 874 funds. We are one of the most heavily impacted districts in the country.

Based on average daily attendance, slightly more than 72 percent of our students fall in the A category. Approximately 10 percent are in the B category and 18 percent in the area of nonfederal people living in the district.

Their degree of impaction, of course, requires very substantial support from the Federal government in the form of Public Law 874 funds.

From a financial point of view, using fiscal '76 as a reference, approximately 56 percent of the revenue of the district was derived from Public Law 874. 36 percent was acquired from state aid through flat grants and equalization funds, and 8 percent from local property tax assessments.

With this degree of impaction, the district must rely on revenue available from all sources, including both the 3-B classification as well as several other minor sections of the law.

We are especially concerned with the possible loss of the support of our B category students while presently representing a relatively small part of the student population and the related revenue of the district. We anticipate that this trend in the next few years will increase substantially.

There has been an indication and an assignment of additional military personnel to Ellsworth Air Force Base and since these individuals cannot be accommodated in housing on Ellsworth Air Force Base it dictates that they must use adjacent facilities for their housing accommodations.

It is estimated that approximately 450 additional students will be added to the area, part of which will fall in the Douglas school District.

Most of these individuals will live in accommodations representing low-cost facilities and many, of course, will live in mobile homes, neither of which will support the education of the students in terms of assessed value or taxable property.

It is important to emphasize in our situation that both the local and state support of education has been at its maximum limit as established by law. That has been the case for more than 15 years. That represents 24 mills assessment against agricultural property and 40 mills against non-agricultural property.

This we feel would substantiate the need for Public Law 874 funds, as cited on page 6 of the written testimony.

Comparison of per pupil cost for the past three years is also provided and I think this is something we are extremely concerned about and our Board of Education is addressing on a continuing basis.

In 1974-75, the district expenditures revealed $102 less per pupil than the ADA compared with the state of South Dakota.

In 1974-76 the amount had increased to $127 less per pupil in ADA. In 1976-77 we project that amount will increase to $160. This increasing trend each year is an indication that we are falling further and further behind in our ability to provide a comparable educational service to the students in our community.

Additional evidence is provided by the comparison of assessed valuation in the district per school age child. The state average in fiscal year 1976 was $20,000 and the Douglas assessed value was $2,000. Fiscal year '77, the state average was $22,000, and the assessed value per student, per school age child, is $2,279.

In addition, while pupil-teacher ratio may not always be an indicator of quality of education, the school district finds itself, during the fiscal year '75 and '76 as having the highest ratio of pupils to certified personnel in South Dakota.

The Douglas School System is also annually confronted with having to project revenue based on a number of variables. We are recipients not only of A category funds and B category funds, but several other minor sections of the law. It is not uncommon under these circumstances to receive the final entitlement or payment in the district as much as 12 to 15 months after the close of the fiscal year.

Under those circumstances it is difficult to project a program of quality and to prepare a budget for succeeding years.

In summary, let me indicate that the district is very much concerned about the future of the school program at Ellsworth Air Force Base and the annual uncertain status of being able to determine with any accuracy the extent of impact aid funds makes fiscal management and educational planning very difficult.

We are faced with a declining trend which, if not averted, if not stopped, will have serious implications for the school district.

Based on this information provided it is apparent it is a highly impacted school district, we are very dependent on the financial support of Federal impact aid, as much nows when the legislation was originally passed. We would support in this regard your continued funding of the provisions of this law.

Thank you, Mr. Chairman.

Chairman **Perkins**. We will go now to Mr. Stormer, Director, Division of School Assistance in Federally-Affected Areas, U.S. Office of Education.

STATEMENT OF WILLIAM L. STORMER

Mr. **Stormer**. Mr. Chairman, I understand that the testimony offered here is relative to major disaster and pinpoint disaster assistance which deviates somewhat from my predecessor's remarks, and copies of the testimony have been provided to you.

Chairman **Perkins**. Without objection, all prepared statements will be inserted in the record.

[The prepared statement of Mr. Stormer follows:]

STATEMENT BY
WILLIAM L. STORMER
DIRECTOR, DIVISION OF SCHOOL ASSISTANCE
IN FEDERALLY AFFECTED AREAS
BUREAU OF ELEMENTARY AND SECONDARY EDUCATION
U.S. OFFICE OF EDUCATION
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
BEFORE THE
SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
THURSDAY, JUNE 23, 1977
9:30 a.m.

Mr. Stormer is accompanied by:

Linda Chavez, Special Assistant to the Deputy Assistant Secretary for Legislation (Education), HEW

Dr. Harry L. Phillips, Deputy Assistant Commissioner for Legislation, OE

Disaster Assistance to School Districts
Authorized by
Public Laws 81-874 and 81-815

Mr. Chairman and Members of the Subcommittee:

Public Laws 81-874 and 81-815 authorize major and pinpoint disaster aid. A major disaster is one sufficiently severe and broad in scope to be so declared by the President. Isolated school disasters may be declared "pinpoint" disasters by the Commissioner under certain circumstances.

Assistance for Current Expenditures

Under Section 7, P.L. 874, major and pinpoint disaster assistance may be given to a local school district (or a public agency operating a school providing technical, vocational, or other special education to children of elementary and secondary age) to help make minor repairs to damaged facilities; to replace or repair instructional and maintenance supplies, equipment, and materials that were seriously damaged or destroyed; to lease or otherwise obtain temporary school facilities while facilities are being replaced or restored; and to assist in meeting the added operating costs due to the disaster including those incurred when a district accepts children attending a private school where operation was disrupted, or impaired, or terminated by a disaster.

Funds from other Federal, State, and local sources including insurance proceeds and interest on such proceeds are considered as available for disaster repair. The applicant is entitled only to the additional amount needed to make the necessary repairs or replacements.

The assistance necessary to meet current operating expenses for free public education for any fiscal year is limited to what the Commissioner determines is necessary to enable the district with State, local, and other

Federal funds available to it to provide a level of education equivalent to that maintained in the schools prior to the occurrence of the disaster. This assistance may be provided for a period not exceeding 5 fiscal years beginning with the fiscal year in which it is determined that the area has suffered a disaster. Entitlements for the third, fourth, and fifth fiscal years following the determination may not exceed 75 percent, 50 percent, and 25 percent, respectively, of the amount of entitlement to support the educational program for the second fiscal year of such five-year period.

Assistance for School Facilities

Under Section 16, P.L. 815, financial assistance may be provided to replace or restore school facilities destroyed or seriously damaged as a result of a declared disaster and to construct additional public school facilities to house children from private schools seriously damaged or destroyed and which are not to be replaced. Assistance may not exceed the construction costs incident to the restoration or replacement of the school facilities destroyed or seriously damaged. In accordance with the Education Amendments of 1974, assistance may include appropriate measures to protect against future personal injuries to pupils who will be housed in school facilities being restored or reconstructed. Thus, such facilities may now include appropriate storm shelters, flood protection and earthquake protection even though the destroyed or seriously damaged facilities being restored or reconstructed did not have those features originally.

Grants are the usual form of assistance for major disasters. However, when the Commissioner determines that the district has funds available from other sources to restore or replace the damaged facility and these funds are not immediately available, he may advance Federal money to the district for immediate use, such advance to be repaid upon such terms and conditions as he may determine. Under pinpoint disasters only loans may be provided. Incidently, we are advised that in some 29 States, local school districts may not borrow from the Federal Government.

In determining the funds an applicant has available under Section 16 for repairing, replacing, or restoring school facilities (exclusive of equipment) seriously damaged or totally destroyed by a disaster, the Commissioner considers as available all insurance proceeds and all Federal, State, or local funds made available to the applicant specifically for repair or replacement of disaster damage, as well as all unobligated or unencumbered funds set aside as an insurance reserve and funds from the sale of bonds voted specifically for the replacement of the school facilities seriously damaged or destroyed as a result of the major disaster.

Priorities for Approval of Aid

Whenever the Commissioner determines that funds available for any fiscal year will be inadequate to provide the financial assistance requested under all approvable applications, as provided by Section 16(c) of P.L. 815 and Section 7(d) of P.L. 874, he will establish an order of priority for approval of applications after considering the relative educational and financial needs of all public education agencies which have submitted approvable applications.

Under Section 7 the priority index established for an approvable application is the ratio (expressed in percentage) of Federal funds for which the Commissioner estimates the application is eligible to the total estimated current operating costs of the applicant including the increased costs due to the major disaster. Under Section 16, the priority index of each application is determined on the basis of the ratio (expressed in percentage) of the number of children in the school district who are relocated to other facilities to the total membership of all schools in the district.

Appropriations

Section 16 of P.L. 815 and Section 7 of P.L. 874, both authorize the appropriation of funds for each fiscal year in the amounts necessary to carry out the provisions of these sections. While these appropriations are pending, the Commissioner is authorized, under P.L. 815, to use such funds appropriated under any other sections of the act as may be necessary for immediately providing disaster assistance under Section 16. Under P.L. 874, any funds appropriated to the Office of Education and at that time available to the Commissioner may be used for disaster assistance under Section 7. We are advised that the funds temporarily used may not include allotment or formula grant funds.

During the years that disaster assistance has been provided, funds used have been those appropriated for Public Laws 815 and 874. No reimbursement for the funds used heretofore has been sought from the Congress. Subsequent to the 1974 Amendments, the Office has been reporting to the Congress funds obligated and expended for disaster aid under the authority contained in Section 7 of P.L. 874.

Summary of Major Disaster Assistance - Fiscal Years 1966-76

Between August 30, 1965, the effective date of disaster school assistance legislation, and September 30, 1976, 306 major disasters were declared, involving 44 States and 3 territories. School districts in 43 of these States and 2 territories have submitted 2,291 applications under Section 7 of

P.L. 874 and 45 project applications under Section 16 of P.L. 815. To date a total of $122,535,733 has been authorized in payments for applications submitted to the Office of Education under Section 7 and $34,988,078 has been reserved under Section 16.

During FY 1976, 46 separate major disasters were declared, involving 25 States and 2 territories. A total of 269 applications for assistance under Section 7 of P.L. 874 and no applications for school construction assistance under Section 16 of P.L. 815 were received in FY 1976. A total of $12,000,000 was authorized for payments to school districts during 1976 under Section 7 and $2,614,082 was reserved for applications under Section 16.

Pinpoint Disaster Assistance

The Comptroller General's opinion issued at the beginning of FY 1976 caused the Office of Education to reexamine its position with respect to implementation of the Pinpoint Disaster program. Final rules concerning the administration of pinpoint disaster aid were published November 17, 1976, and became effective some 30 days later. The Division has received some 265 requests for assistance mainly under Public Law 874. Two-hundred-four (204) of these requests are accompanied by State evaluations and governor's certifications of the need for assistance to fund these applications. Those applications determined eligible for assistance will be ranked in priority order with eligible major disaster applications and approved to the extent that funds are available. Eligible applications not funded initially will continue to compete on a priority basis with others for future funding.

Administration of the pinpoint disaster program is obviously just getting underway, but we hope to be able to handle current requests while at the same time accommodating the elimination of any backlog of eligible districts resultinf from the recent policy determinations to fund retroactively.

Mr. Chairman this concludes our prepared Statement on the Disaster Assistance Program. We shall be glad to have any questions which you or members of the Subcommittee care to present.

Mr. STORMER. I will attempt to summarize the prepared statement by indicating both 874 and 815 public laws authorize major and pinpoint disaster assistance. A major disaster is one declared by the President under the authority of Public Law 93-288 and is of sufficient severity and scope and encompasses a rather large geographic area.

Pinpoint disaster, although not referred to as pinpoint disaster in the law, is one which is an isolated instance where a school building is destroyed or severely damaged by a natural phenomenon.

Assistance under Public Law 874, Section 7, provides for the minor repair to damaged facilities, the repair or replacement of equipment, materials and supplies which have been damaged or destroyed, the leasing or otherwise providing of temporary school facilities while permanent school facilities are either being repaired or replaced or reconstructed.

In addition, operating costs may be provided when there is a loss of revenue due to the destruction by the disaster of tax valuation. In addition, assistance may be rendered to provide for the additional cost that a school district may incur due to the acceptance in the public schools of formerly non-public pupils whose facilities have been damaged or, destroyed and operations terminated.

When we consider federal disaster assistance, we also look at the other federal, state and local resources that are available to assist in disaster recovery, including the insurance proceeds and interest earned on such proceeds which can be received due to the fact that recovery takes a longer time than usual.

We may provide the assistance to maintain the level of education that was offered in the school district prior to the disaster. That assistance may be rendered over a period of five fiscal years. The year of the disaster and the year following would render 100 percent assistance. Subsequent years would diminish from 100 percent to 75, 50 and 25 percent.

Under Public Law 815, under the provisions of major and pinpoint disaster assistance, it is the purpose of reconstructing a building which has been seriously damaged or destroyed as a result of the disaster. Generally under the major disaster provision the assistance is a grant to the school district to reconstruct the damaged school facilities. Under the pinpoint disaster assistance provision, as previously indicated in comments this morning, assistance is a loan to a school district.

There are some 29 states which indicate that they may not accept a loan from the Federal governent, thus rendering the pinpoint disaster assistance under 815 a questionable vehicle for assistance to the local educational agency to recover from such a disaster.

Assistance is provided on a priority basis when funds are not sufficient to cover the total scope of the cost of reconstruction. The priority under Section 7 of Public Law 874 is expressed as a ratio or percentage of Federal funds which the commissioner estimates the application is eligible for, compared to the total estimated current operating costs of the district, including the increased costs due to the major disaster.

Under the provisions of Public Law 815, Section 16, the priority index, again expressed as a ratio, is a comparison of the number of children in the district who are relocated into other facilities compared to the total membership of all schools within the school district.

Appropriations are available to render this assistance under Public Law 874. The money may come (as a result of the amendments of 1974) from any sources that are available to the commissioner at the time of the disaster, and a report is made to the Congress on a 30-day basis of the obligations and expenditures for assistance for both major and pinpoint disaster relief.

Under Public Law 815 there is the authority for the commissioner to use from the P.L. 815 appropriation the money necessary to permit grants to be made to local educational agencies and the commissioner has the authority to file with the Congress a request for a supplemental appropriation to replace these monies.

A summary of disaster assistance might be helpful. Since the beginning of the authorization in 1965, there have been some 306 major disasters declared in some 44 states and three territories. This has generated some 2200, almost 2300 applications under Section 7 of Public Law 874 and 45 project applications under Section 16 of Public Law 815.

To date from 1965 through fiscal year 1976, the assistance rendered under Public Law 874 has been in excess of $122 million. Under Public Law 815 it has been in excess of $34 million.

I should speak briefly at this point to the pinpoint disaster authorization. This was granted to the Office of Education by amendments to both P.L. 874 and 815 on January 2, 1968.

From that period until the beginning of the fiscal year 1976, the Office of Education did not implement the pinpoint disaster authorization. On July 1st, 1975, the Comptroller General indicated to the Commissioner that there was no authority not to implement pinpoint disaster assistance and subsequently we have prepared regulations to implement these authorizations.

To date we have 400 requests for pinpoint disaster assistance, mainly under P.L. 874. 333 of these are accompanied by State evaluations and the Governors' certifications that monies are required in order to provide assistance and to recover from these isolated or pinpoint disasters.

The Office of Education currently is in process of implementing pinpoint disaster assistance for those which are currently on file and I might indicate the figure of 400, represents the requests for disaster assistance from July 1, 1975 to the current date. We are in the mode of preparing a notification to local educational agencies that we will accept applications retroactively to reflect assistance for disasters which may have occurred back to January of 1968. We anticipate that by November or December we would have an appraisal of what that backlog really is instead of our estimate.

Mr. QUIE. Where do you get your authority to go back to 1968?

Mr. **Stormer**. This has been a debate between the Office of Education and the Office of the Comptroller General and the Department as to whether or not we could arbitrarily set a date. We arbitrarily had set a date of July 1, 1975, the date of the Comptroller General's opinion. We considered that as the beginning date but, according to counsel and GAO, we did not have the authority to set that arbitrary date and we must go back to the date of authorization.

Mr. **Quie**. I am glad you did.

Chairman **Perkins**. I should have recognized Dr. William Duncan, Supervising Principal of Highland Falls for his testimony.

Without objection, your prepared statement will be inserted in the record.

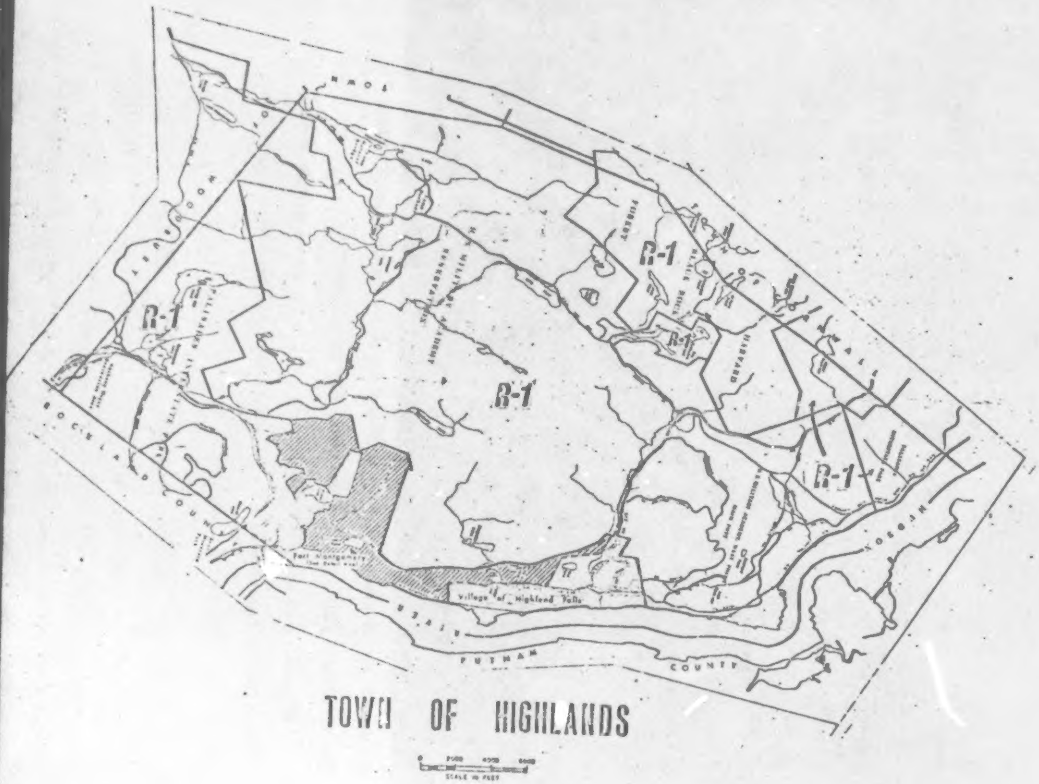
[The prepared statement of Dr. Duncan follows:]

HIGHLAND FALLS-FORT MONTGOMERY
CENTRAL SCHOOL DISTRICT
HIGHLAND FALLS, NEW YORK 10928

DR. WILLIAM F. DUNCAN, SUPERVISING PRINCIPAL

SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION

THURSDAY, JUNE 23, 1977



TOWN OF HIGHLANDS

THE UNCHANGING IMPACT

A glance at the map on the facing page shows very clearly the extent of the impact of the United States Military Academy at West Point on the Highland Falls-Fort Montgomery Central School District. The shaded portion represents the 1700 acres of land left on the tax roll out of the 21,000 acres total land area of the district. So small is the resulting tax base that even after a County-wide reassessment, which advanced all properties to market value, our school district has the lowest taxable wealth per student of the 55 districts in the entire Mid-Hudson Area. This is indeed more noteworthy in light of the fact that Orange County was the only one of the 5 or 6 counties involved that conducted the reappraisal.

The burden of the Federal presence on the school district is plainly both substantial and permanent. Our citizens are very much aware of it for they are paying school taxes and many of them had their lands and homes taken from them. Each year as we present the school budget to the public, the same questions are asked: "Why can't you tell us for certain how much Impact Aid we're going to get next year?" "Why can't you get a permanent law so you don't have to fight about this every year?" "Doesn't the government recognize the problems that it created?"

Finally, this year, one of our townspeople rather waggishly asserted, "The only real solution is to sell what's left to the Federal Government and let THEM finance the schools."

THE CONTINUING ATTACK ON THE "B" STUDENT

If the federal property were on the tax rolls, there is no question but that Highland Falls would be in a similar position to one of our neighboring school districts which has two large electric generating plants located within its borders. The taxable wealth per student of that district is 5 times that *of ours, and the major part of the school tax is gained from the commercial property.*

The fact that the "B" students' parents pay local [illegible] on their homes is exactly the reason that the payment rate for "B" students was originally set at one-half that of the "A" student. The taxes ordinarily paid by the commercial property, such as the aforementioned electric generating plants, are not paid by the federal installation and it is this lost tax that is being paid in behalf of the "B" student.

Indeed if one really contrasts the "B" type of payment system with the ordinary school district financial system it is the "B" system which emerges as the fairer of the two because the district that has the burden of the children to educate is the district that receives the payment. In the ordinary system, school district boundary lines were drawn in an arbitrary manner, resulting in the creation of some artificially rich districts and some artificially poor ones, depending upon the presence or absence of commercial properties to share the tax burden. This system is coming under more and more attack through the courts because of the educational inequalities that such a system produces.

I would like to take this opportunity to thank the Chairman and the Members of the Committee for permitting me to come before them and present this material. I trust that it will be helpful in your deliberations.

STATEMENT OF WILLIAM F. DUNCAN

Dr. DUNCAN. Mr. Chairman, I appreciate the opportunity to come here and present this testimony.

The Highland Falls School System is not as huge in terms of student population as others who have presented testimony here this morning. We have about 1500 students. Fifty percent of them are federally-connected. We have 250 A students in our high school. We have no elementary A students because there is a Section 6 school operating on the West Point grounds.

Our impact aid funds amount to about 20 percent of our budget. Basically our problem is really not only the students, but more importantly the fact that we have 7 percent of our land left to us on the tax rolls.

The points I would like to make are only two. One, that this impact on our school district is continuing, it has been in existence for many, many years, and it is not going to change. Our citizens are very much aware of the impact of the Federal installation on our school system and they know it is not going to change. They can't understand why we have to continue the struggle every year over the authorization and funding of this law when it is so evident to them that they are very heavily impacted. Indeed, as I mentioned in my report, one of our citizens suggested that the best thing we could do was to sell the land we have left to the Federal government so the Federal government would have to finance the schools, the water, the sewage and all the other community services.

The other point I would like to make has to do with the B students. I believe their funding is necessary. If we look at the amount of tax revenue that would be generated by this land updating its value to present times, I am sure that we would be one of the wealthiest districts probably in the United States if this land were on the tax rolls. The B student is a very significant part of this because, as all of these other gentlemen have also stated, they pay no taxes; they have many tax-free benefits availabie to them on post and our school district has the burden of educating their children.

I think the B student funding is one of the fairest means of educational finance because there are many districts throughout the United States which were created artificially rich by virtue of property that could be used for business or industry within their boundaries and others which were created artificially poor.

The B student funding at least makes the payment to the school district that has the children. So, where the expense is needed the funds are provided. Those are the two points I would like to make.

Thank you very much for your attention.

Mr. QUIE. Could you tell me, Dr. Duncan, how many are in the Section 6 school and how many are outside of that?

Dr. DUNCAN. There are approximately 900 children in the Section 6 school. We have a total of 1500 students in our school district outside of the Section 6.

If I may make another point with respect to the A funding, we are in a very strange situation because our high school is bigger than our elementary population because we only receive the A students from West point at a high school level so it is not possible for us to become a super-aid district since we do not have 25 percent of the total student population as A students. Yet they amount to 30 percent of our high school enrollment. So we have a very serious impaction of A students at the high school level, but are limited to 90 percent of the funding because of that particular part of the law.

Mr. QUIE. The West Point students then go through 9th grade in the Section 6?

Mr. DUNCAN. They stop at 8th grade and we have them 9th through 12th.

Mr. QUIE. Why don't you turn over the high school students to the federal government under Section 6?

Dr. DUNCAN. We would like to do that. We have educated their high school students for I guess as long as they have been having high school students at West Point. When they built the Section 6 schools they stopped it at the 8th grade. At this point I think the numbers are probably economically not realistic for the Federal government to build a high school at West Point and educate them since there would be but 250 students involved.

Mr. **Quie**. In the Section 6 school, there are both A's and B's?

Dr. **Duncan**. It is entirely on the post at West Point.

Mr. **Quie**. Are there any B students that attend?

Dr. **Duncan**. They are all residents of the West Point reservation. No townspeople go into that.

Mr. **Quie**. Do you have any A's in the 1500?

Dr. **Duncan**. We have 250 As.

Mr. **Quie**. How many B's?

Dr. **Duncan**. 500.

Mr. **Quie**. You have a little less than a thousand of your own?

Dr. **Duncan**. We have 750 of our own. 250 and 500 makes 750 and we have a total of 1500 students in our own district outside of the Section 6.

Mr. **Quie**. Let me ask about the Douglas School District, Ellsworth Air Force base. Why didn't you turn those over to the Federal government?

Dr. **Mueller**. There have been times when we have considered that possibility and in working with the base officer and other officials on Ellsworth Air Force base, as well as with the staff office, the process of establishing new Section 6 schools has been discouraged.

Mr. **Quie**. One of the problems you have is that the state provides such a little amount of money for education in South Dakota. I believe South Dakota is the worst state in the union for that.

Dr. **Mueller**. Not quite, but very nearly.

However, I would like to indicate that the equalization fund from the state for the Douglas School System I believe is the highest per pupil that exists in South Dakota. I believe a year ago that was approximately $308 per pupil. That, of course, is based on the flat grant formula and an equalization formula so while the state average is not substantial they do make a real contribution to the number of students enrolled in the district.

Mr. **Quie**. Do you recall the state average?

Dr. **Mueller**. Not exactly. It is approximately $150 for the state average.

Mr. **Quie**. That compares with your neighboring state of Minnesota of $1,030.

Chairman **Perkins**. Let me ask you a question, Mr. Stormer.

Do you have any estimates on the number of schools which can now qualify for pinpoint disaster assistance under your present regulations? How much money would be involved and where are you going to get these funds?

Mr. **Stormer**. As I indicated we had, at the time this testimony was written, 400 requests, of which 333 have the accompanying State evaluations and Governors' certifications requesting pinpoint disaster assistance.

I would presume that probably the 333 which have the Governors' certifications may ultimately be declared pinpoint disasters.

We have used a rough estimate, assuming we return to January 2, 1968, that it would require in the neighborhood of $130 million to service pinpoint disaster assistance.

We recognize that this estimate, at the present time, is a soft estimate. This is one of the reasons, as I have indicated, that we will be publishing in the Federal Register a notice to applicants that we are going to consider applications from the period of 1968 to the present. At the present time the notice in the Federal Register indicates we would consider them from '75 until the present. We would anticipate being able to firm up an estimate, probably in November or December, once the local school districts have an opportunity to consider this period between '68 and '75.

Chairman **Perkins**. Taking my congressional district as an illustration, in the first four or five days of April we had a disaster down there, the highest flood in the history of the Commonwealth as far back as records go. It hit especially hard on the Tug Fork of the Big Sandy. Many schools in that area were severely damaged. The water got up to the second floor—through the basement up to the second floor. The same thing happened on the Leviathan Fork of the Big Sandy. I know there were many applications for disaster assistance, but as I understand several were turned down and denied. What was your reason for that? The inadequacy of the appropriation?

Mr. **Stormer**. No. Let me say I recognize major disaster was declared with respect to the flooding in the spring, including Kentucky, Virginia, West Virginia and several other states—roughly at the present time I think we have $9 million worth of applications that are determined to be eligible.

The Office of Education is currently engaged in attempting to identify the resources that are available to the Commissioner in order to fund both the major disaster assistance applications, some of which have been funded and some of which have not been funded——

Chairman **Perkins**. That is correct.

Mr. **Stormer**. ——as well as——

Chairman **Perkins**. If you haven't adequate funds for that purpose, will you come back and let the committee know it?

Mr. **Stormer**. Yes, sir, we are required by law to come back and inform the Congress every thirty days of our obligation. The process at the present time is to use any resources available to the Commissioner and use those resources for major and pinpoint disasters and report to you——

Chairman **Perkins**. I would think you should let the members in the Congress representing areas where these schools have made application know the status of these applications and if for any reason there is disagreement, give the people from the area an opportunity to come to Washington, to present a correct picture of the situation.

Mr. **Stormer**. Let me follow up on your comment relative to determining applications ineligible.

I recognize within your congressional district we have some—I won't say disagreements, but we have some portions of the applications which are under consideration. We do not have all of the facts necesssary to make final determinations. One specific example, is relative to school buses damaged in a couple of counties.

The applications for those major disaster requests are eligible. There is a question on certain aspects of the application, one aspect being the degree of assistance that is required to replace or repair school buses which were—some of which were in service for transportation purposes and some of which were not in service. We currently are engaging in conversations with the state educational agencies with respect to their policy on providing transportation assistance.

Chairman **Perkins**. The way I understand the Act presently, you can go to other appropriations where you have funds available and use them for disaster assistance and then come back to Congress and ask for a supplemental. Are you not required by law to spend funds for disaster aid and then to come to Congress and ask for a supplemental?

Mr. **Stormer**. That is correct.

Chairman **Perkins**. So there is no reason why, if you find a disaster has taken place and you owe a certain amount, that you cannot go ahead and apportion those funds, under present law.

Mr. **Stormer**. That is correct. It is a problem though, sir, of identifying the funds that are available, that are unobligated. We are advised that the sources which we may tap within the Office of Education are primarily discretionary appropriations, or funds which are not allocations or formula-grant types of appropriation. In addition, you find that the Commissioner has a difficult job identifying—not identifying, but deciding how much he will take from certain pots, because in taking money from—and I don't know which pot——

Chairman **Perkins**. I know it may be difficult, but that is what the law directs. He is authorized to do it.

Mr. **Stormer**. He is presently engaged in this exercise.

Chairman **Perkins**. Now, Mr. Triplett and Dr. Mueller, you both are very heavily impacted school districts. Are you satisfied with the provisions of Public Law 874 as regards your school district or should that law be amended to give you more preference?

In other words, are your problems with the authorizing laws or with the appropriations?

Mr. **Triplett**. The major problem we faced for the past seven years, of course, has been a problem with appropriations. Certainly highly federally-impacted school districts such as ours have great need for those Federal funds and in the event there is not an adequate amount of money to actually fund the bill, there needs to be some priority provisions that direct those funds to highly federally-impacted schools such as ours.

With respect to the authorization legislation, there are some priority provisions that are built into the legislation at the moment, but it appears that there needs to be a priority provision recognizing the military B population as well as the percentage of impaction.

Chairman **Perkins**. Now, Dr. Mueller, you respond.

Dr. **Mueller**. I would agree totally with that provision. Perhaps our school system has one additional condition or factor that limits our ability to function as we would like, and that is the problem of projecting income. We qualify under one section of the law and I believe we are presently only one of perhaps two districts that receive funds under 3(D)(b)(2), which is a budget balancing section. Unfortunately, those funds are generally available after the school term is completed, perhaps even as much as a year, and this, of course, doesn't allow for adequate planning, but I believe I would agree with Dr. Triplett to the extent that it has been a matter of appropriations that we do need all parts of the present law to continue to function.

Chairman **Perkins**. Dr. Stormer, getting back to disasters, as I recall I authored that law several years ago, but there are so many schools down home that are really in a dilemma. I would like for you to take a careful look at the applications and let the school districts know where they stand at the earliest possible date, especially in view of the fact that the schools down there are going to open their doors again in mid-August. The crisis they face is staggering in many of those school districts because of the inadequacy of the resources on hand.

I would like for you just to look into that, or any other district in the country that has had a disaster similar to the one in my own district. I think when a disaster of that type happens—and it doesn't matter whose congressional district it happens to be in—that those situations should take priority. Will you look into those situations and let those school districts—not only in my district, but throughout the country—know their situation?

Mr. **Stormer**. We believe we will be in a funding situation within the next two weeks. That is how imminent the decision is with reference to the amounts of money we will have available.

I recognize the need for school districts to have these monies before the opening of school in order that they may effectively open schools. We do have a priority listing of every school district that is eligible. It includes a number of states.

Chairman **Perkins**. Thank you very much.

Mr. **Pressler**. To illustrate the problem in the Rapid City area, I want to ask Dr. Mueller if the impact aid were discontinued, what alternative sources of income could Douglas School District turn to and what would happen to the students? Could the Rapid City schools absorb an additional 2,500 to 3,000 students?

My purpose in asking that is that in South Dakota, I don't think our state is doing enough. Of course, we have had the drought in the last year which has left our local school districts in a lot of places—not so much Douglas; it is not so relevant there—in financial trouble. A lot of our schools in South Dakota are getting Federal impact aid—if that is eliminated, there just doesn't seem to be alternative sources and that is why I am a strong advocate of helping more here. I guess to frame this question or to illustrate it my question to you is, what would happen to the students in the Rapid city area?

Dr. **Mueller**. With regard to the first part of your question on the possible options, we have very few. as I indicated, the community is taxing to the maximum limit provided by law. The school boards are in no other position to acquire revenue by any means than provided by the legislation of the state, so the first indication would be a reduction in programs, a reduction in staff to the point where it would be diluted and one perhaps could not continue to exist.

Mr. **Pressler**. You already have the worst student/teacher ratio, the most extreme in the area, is that not correct?

Dr. **Mueller**. It has been the lowest in the state during the fiscal year '75 and '76. We might have gained somewhat this past year, but that figure is not available.

Mr. **Pressler**. I realize our discussion of impact aid during this Congress is focused mainly on funding B students. What effect would a phase-out of Federal aid for Category B students have on Douglas schools?

Dr. **Mueller**. The amount of money we presently receive under Category B represents only about 4 percent of our total budget. However, even that is significant when you are presently operating at a level that is less than the state average by approximately $150. So the loss of any revenue from any category is significant in our district.

Four years ago we experienced the situation of having to release 29 staff members and reduce programs and quality substantially. It appears we are once again heading in that direction.

If I could respond to the possibility of Rapid City assuming or acquiring the children at Ellsworth Air Force base, there is among the 20 largest districts in South Dakota, only 1 that spends less per pupil than does the Douglas School System, and that happens to be Rapid City, so it would be adding one disaster to another and I don't think at this point we would be very welcome.

Mr. **Pressler**. Thank you, Mr. Chairman.

Let me say I am very worried we are not talking about cutting off the frills in this school; we are jeopardizing the meat of basic education.

Chairman **Perkins**. Mr. Weiss.

Mr. **Weiss**. No questions, Mr. Chairman.

Chairman **Perkins**. Are there further questions?

Dr. Duncan.

Dr. **Duncan**. Mr. Quie brought up the question of the Section 6 schools and why we didn't tell the Federal government to take all of our A students and educate them on the post. I believe that it is the policy of HEW and has been for a number of years to go the opposite direction and to attempt to get the local school districts to take over Section 6 schools wherever possible.

We did a study in our district on that some years ago. I think it is worth noting that at that time we had a citizens committee involved in the study and that the West Point Section 6 school was spending about $1800 a pupil at the same time we were receiving about $800 for an A student. A lot of our citizenry felt that the difference would have to be made up by the state of New York and tht this wouldn't be a fair thing for the community, among a host of other problems we are connected with in assuming the control of that section 6 school.

Chairman **Perkins**. Let me thank the entire panel for its assistance here this morning. You have been most helpful to the committee.

We are delighted to call on Mr. Corrada because he is one of the most outstanding members of this committee and has made a great contribution since he has been made a member of this committee. He supports all of our educational programs.

Mr. **Corrada**. Thank you very much, Mr. Chairman, for those kind words. I wish to thank you for having provided a forum for several representatives of the parents and teachers of the Antilles Consolidated School System, and particularly those of the Antilles Middle School, located at Fort Buchanan, Puerto Rico.

Shortly after my election to Congress last November, I met with a group of parents and teachers from that school. The 637 students of the middle school in grades 5 through 8 were schooled in 36 year old temporary wooden barracks on loan from the Army since 1966. These structures were termite-ridden, rat and bat-infested, built on shaky foundations, had unsanitary piping and unsafe wiring. They looked more like hovels than classrooms for the children of Federal employees. The Army declared these structures unsafe, and tore down seven last summer. The remaining barracks will be torn down this summer, and rightfully so.

But what happens when these structures are gone? The Army is not responsible for their repair, upkeep or construction in lieu. This is the responsibility of HEW, but since they do not own the buildings, you end up in a Catch 22 situation.

The pleas of the parents and teachers have gone unattended. Numerous standard reply letters were sent to them from Washington to the effect that this was not a unique problem, that they should share their sorrows with those equally afflicted, and that the solution was money, which was unavailable because of freezes, insufficient appropriations, or other limitations. The alternatives offered were highly unsatisfactory, including double sessions, overcrowding, and slashing of educational offerings. These would be a way of life, with no guarantee of future relief.

The fact remains that the students at the middle school are children of Federal employees, the majority of whom work for nonmilitary agencies, such as the Veterans Administration, FBI, Public Health Service, FAA, etcetera. They are eligible to participate in the school under P.L. 81-874, Section 6(c), and entitled to an education comparable to that provided in the public schools of the District of Columbia. Only through the efforts of their parents and the attentive ears of Congress have they been able to secure a commitment for funds to provide $360,000 to build portable classrooms to replace the old wooden structures.

Congressman Flood himself, at my request, sponsored a measure directing these funds for the middle school in Puerto Rico. When the House approved last week the Labor/HEW appropriations, the language in the report directed the $360,000 to take care of this problem. I understand that the Senate is also in a favorable disposition.

What we must keep in perspective, however, is that these portables provide only a temporary solution to a much larger problem. In 1966, an application was submitted to the U.S. Office of Education for a new Junior-Senior High School. The plans and specifications were approved on October 21, 1969.

To date no action has been taken, although the price tag of $2.5 million has more than tripled. This is the oldest project on a list of applications under Section 10 of P.L. 81-815 which has been approved but never funded. If this facility were built tomorrow, all the problems would be solved. The middle school would occupy the elementary school, the elementary school children would use the old high school, and the high school students would use their new high school. Eleven years is a long wait, and I trust that we won't have to wait any longer for some positive action.

I wish to welcome Mrs. Patt Moore and Mrs. Georgia Hudak, whose children attend the Antilles Middle school, and who have literally paced the halls of Congress seeking support for their cause. They are here thanks to the numerous donations of parents who are equally concerned about the quality of education being offered to their children.

I also wish to welcome Mr. Linn Wallace, who is representing the Antilles Consolidated Education Association, at Fort Buchanan, and Mrs. Gail Bramblett from the National Education Association, who is accompanying him. I hope that with the benefit of their testimony we can initiate those efforts aimed at ending years of inaction, and come to better understand the importance of a well administered and effective impact aid program.

I would also like to recognize the presence here of Colonel Peters of Fort Buchanan.

Thank you, Mr. Chairman.

STATEMENTS OF MRS. PATT MOORE, PARENTS ORGANIZATION FOR QUALITY EDUCATION, FORT BUCHANAN, PUERTO RICO, ACCOMPANIED BY MRS. GEORGIA HUDAK, PARENTS ORGANIZATION FOR QUALITY EDUCATION; LINN WALLACE, PAST PRESIDENT, ANTILLES CONSOLIDATED EDUCATION ASSOCIATION ACCOMPANIED BY MS. GAIL BRAMBLETT, OFFICE OF GOVERNMENT RELATIONS, NATIONAL EDUCATION ASSOCIATION; DR. DAVID L SMITH, ASSISTANT FOR GRADUATE EDUCATION/DEPENDENTS EDUCATION AND YOUTH PROGRAMS, OFFICE OF THE DIRECTOR OF NAVAL EDUCATION AND TRAINING, DEPARTMENT OF THE NAVY; WILLIAM L. STORMER, U. S. OFFICE OF EDUCATION, ACCOMPANIED BY MRS. ZULLA TONEY, CHIEF, MAINTENANCE AND OPERATIONS BRANCH, AND COLONEL ROBERT PETERS, BASE COMMANDER, FORT BUCHANAN, PUERTO RICO.

Chairman PERKINS. Mrs. Moore, you may proceed.

[Mrs. Moore read the following statement:]

TESTIMONY OF MRS. PATT MOORE

AND MRS. GEORGIA HUDAK

FOR THE

ANTILLES CONSOLIDATED SCHOOLS AT FORT BUCHANAN, PUERTO RICO
PARENTS ORGANIZATION FOR QUALITY EDUCATION
AT BUCHANAN SCHOOLS
P. O. BOX 34347
FORT BUCHANAN, PUERTO RICO 00934

Mr. Chairman, Members of the Subcommittee on Elementary, Secondary and Vocational Education, we represent the recently formed Parents Organization for Quality Education at Buchanan Schools, and appreciate deeply this opportunity to appear before you. These schools are part of the Antilles Consolidated School System (ACSS) in Puerto Rico operated by the Office of Education in the Department of Health, Education and Welfare (HEW). The Antilles Consolidated Schools (ACS) at Fort Buchanan are unique in many respects and differ from other PL 81-874 Section 6 schools. Our uniqueness and differences have created and contributed to some of the problems and frustrations the school, the teachers, and the parents have experienced. Along with our analysis of the problems, we will offer constructive criticism and suggestions of how we can all help so the school system can be improved and our children can benefit from the high quality education to which they are entitled.

In the Summer and Fall of 1976, many individual parents realized that the ACS administration and teachers had a very serious building problem facing the Middle School for grades 5 through 8. In April 1977, the Parents Organization for Quality Education was formed for the express purpose of working positively and constructively together with the teachers and the administration on our mutual problems affecting our children's education at ACS.

Function of ACS - The ACS fill a definite education need for Federal dependents in Puerto Rico. The ACS at Fort Buchanan make it possible for Federal families to live and work in Puerto Rico. The ACS is located on a U.S. Army Base (Fort Buchanan) in metropolitan San Juan. Funds are provided to the HEW Office of Education under Section 6 of PL 81-874. These funds are administered by Rear Admiral William R. Flanagan, Commander, Naval Forces Caribbean, Roosevelt Roads Naval Station, Puerto Rico. Most (62%) of the total ACS enrollment are Federal, non-military agency dependents. A detailed breakdown of enrollment is shown in Table 1. There are 52 Federal agencies in the San Juan area. Of the 38% military dependent enrollment, half are Army dependents that live in the 361 family quarters located on Fort Buchanan.

Alternatives to ACS - The Federal dependents need ACS. What would be the alternatives if there were no ACS?

1. Public Schools - The Puerto Rico public school system is underfunded and overcrowded. The Puerto Rico public schools receive $400/student compared to the $2,060/student ACS receives. One-quarter of the Puerto Rican high school age students do not attend school, and there is no classroom space to accomodate them if they desired to attend.[1] The Puerto Rico public schools teach

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[1] Figures on public schools were provided by The Honorable Carlos E. Chardón, Secretary of Education, Commonwealth of Puerto Rico, in a speech before the Federal Executives Association, San Juan, Puerto Rico, May 19, 1977.

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in Spanish and are unable to provide English language education to prepare students for transfer or eventual return to stateside schools. Puerto Rico has some pilot experimental programs to aid the returning Neorican to reenter Puerto Rico. These programs are not geared to aid the transient Federal dependent.

2. Private Schools - The San Juan area has many excellent private Spanish and English parochial and nonsectarian schools. If Section 6 schools should be phased out and if tuition reimbursement or vouchers could be issued, these schools could probably be used by the Federal agencies in Puerto Rico, if given sufficient lead time. Attending Spanish language schools would require major adjustment by some newly arrived children. Many of the private schools have long waiting lists and limit their student body to those of the same religious faith. At this time the public and private schools in the San Juan area are unequipped and unprepared to enroll 1,200 additional students.

Advantages of ACS - Federal employees have lived all over the world. Many who come to Puerto Rico have a Spanish cultural background. There is a grand mixture at ACS --so mixed that everyone is a minority. Multicultural pride and understanding can grow in this type of situation. Seventy-five percent of the ACS students live in a home with at least one Spanish-speaking parent: for half of these students, Spanish is their first language. The ACS has provided and continues to provide a good all-around English education for these students. Beginning in the third grade, Spanish is part of the curriculum; most of the ACS students are bilingual.

ACS has long enjoyed the reputation of offering a varied and challenging curriculum tempered with electives and extracurricular activities that provide quality education for our children. Many parents of ACS students have college degrees; many are professional people. Our children may elect not to enter college, but we want them prepared for and equipped to succeed in a university program should they wish to do so.

ACS offers an exciting summer school program that students eagerly await. This program consists of remedial and make-up courses, exploratory and enrichment courses, and health, safety, and recreation courses. Students are stimulated and encouraged to broaden their horizons and interests.

There are many innovative teachers who enrich their classes and activities. Possibly, Puerto Rico's geographic location and image as an exotic island in the Caribbean attract an adventuresome faculty. The teacher salary scale is comparable to that in the District of Columbia. This scale is higher than either public or private Puerto Rican schools. ACS can therefore afford to be selective and to hire the best qualified teachers. In Puerto Rico the specialized programs are very important --libraries, music, art, physical education, industrial arts, drama, nursing services, special reading, speech therapy, counseling, and multilevel courses.

A good school system is a recruitment incentive for Federal families with school-age children to work in Puerto Rico. When our children are happy and developing well in school programs, we parents can enjoy living and working in Puerto Rico.

Problems of ACS - We have two problems with our children's education in ACS:

1. Demolition of ACS Middle School - The permanent Elementary School and High School buildings were constructed by the HEW Office of Education and are located on land which has been deeded to the Department of Health, Education and Welfare. In contrast, the Middle School classes have been housed since 1966 in old wooden Army barracks which were built in 1942 with an expected use period of ten (10) years. During the Vietnam conflict, the enrollment at the Elementary and Junior-Senior High School jumped drastically, and immediate relief was needed for housing the influx of students. Naturally, HEW could not erect a permanent building overnight. When the Army generously offered the use of the old barracks for the school's purpose, it seemed that a temporary solution had been found. At the same time, an application for a new Junior-Senior High School on the base was accepted by the Office of Education and, subsequently, the final plans were approved 21 Oct. 1969. Unfortunately, the money needed for construction under Section 10

of PL 81-815 was frozen by then President Nixon, and our school now claims the dubious distinction of having the oldest project on a list of building application that has been approved, but never funded.

The Army barracks housing the Antilles Middle School have continued to deteriorate with time, to the point that they are now condemned and will be demolished commencing 1 July 1977. And rightfully so. This situation was only tolerated because every year it was expected that the freeze on new school construction would be lifted and the plans approved in 1969 would be implemented. Meanwhile, for 11 years the students in these condemned buildings have been exposed to the following life and safety hazards:

1. Buildings with deteriorated piers and below-floor structural members, liable to collapse from advanced decay alone or under the stress of major storms (Puerto Rico is in the hurricane belt.)

2. Combustible buildings with unsafe electrical wiring, corridors that are narrower than the legal minimum, and no manually operated fire alarm system.

3. Buildings infested with bats and rats and contaminated with their excrement. Bat excrement harbors histoplasma, which produces histoplasmosis, a sometimes fatal lung infection. Rats carry leptospirosis, a disease which may result in fatal hepatitis.

4. Buildings surrounded by open drainage ditches, a source of disease-carrying mosquitoes.

Our children and their teachers have been subjected to the ever present danger of these bat-, rat-, and termite-infested buildings for too long. It is inconceivable that the Federal Government has been willing to educate our children in these deplorable conditions.

Toward the end of the school year 1975-76, the administration announced that several of the old barracks were to be torn down during the Summer recess. Because the parents were concerned about possible overcrowding and loss of some special services, they became loosely organized in hopes of bettering communication between parents, teachers, and the administration in order to solve problems that might arise. But when classes resumed in the Fall of 1976 and the Army gave eviction notice to the Middle School, the Concerned Parents Group actively took part in finding a solution for the housing of 637 Middle School students. First, an open house at the Elementary School drew a large crowd. A panel discussion outlined the status of the Middle School buildings, the importance of keeping grades 5-8 separate from the lower and upper grades, and the administration's alternative solutions to the problems. The proposed solutions were (1) double sessions, (2) classes all year on the 45-15 plan, (3) portable classrooms, and (4) ask the Army for any other unused buildings.

The portable classrooms were favored by the parents until such time as the new Junior-Senior High School could be funded and constructed, but HEW still did not have the funds available under PL 81-815. During the next six months additional meetings were held, speeches were given, and letters were written to find an answer to the problem. The first meeting with Resident Commissioner-elect Baltasar Corrada was most fruitful and eventually resulted in the arrival in Washington of two mothers whose main concern was to lobby for the funds needed for portable classrooms. By this time, the Concerned Parents Group had become the Parents Organization for Quality Education and Buchanan Schools, having surmounted the obstacle of reaching the parents through 52 Federal agencies. With the help of Resident Commissioner Corrada, the parents were successful in having language put into the HEW appropriations bill, H.R. 7555. When this legislation is enacted, we will receive financial aid to construct portable classrooms.

Until the time that the portable classrooms can be erected, however, the Antilles Middle School will be spread out over a distance of 1-1/2 miles, from the Elementary School to the High School (see Fort Buchanan map in the Appendix). The fifth grade will be absorbed into the Elementary School, thus creating overcrowded conditions. The sixth grade will be housed in two buildings scheduled for demolition in 1978. The seventh and eighth grades will occupy half of the U.S. Army Reserve building in front of the high school. Since this building is used by the USAR at night and on weekends, students and teachers will not be allowed to keep supplies or materials in the rooms. The corridors of the USAR building is so narrow that the students will remain in the classrooms and the teachers will change classes. No one in the administration has answered our question on the fire and safety hazards. Two other buildings in that area are being readied for use, one of which floods during heavy rains, which are frequent in Puerto Rico.

The portable classrooms will relieve this strain when and if they are made available, hopefully by January 1978. But this type of building will not last indefinitely in the tropics, so it is necessary to begin construction as soon as possible on the proposed Junior-Senior High School.

In his In-depth Study of School Facilities, Dr. James Woffter of the HEW Office of Education emphasizes the need for a new Junior-Senior High School. He points out that the Middle School is not up to the Life Safety Code and the American National Standard Institute (A117.1-1961 (R1971) - Architectural Barriers to the Physically Handicapped. Although scheduled for release 15 May 1977, this report still has not been released. The preliminary report is an adequate analysis of the problems and needs of ACS. The only error we can find is that the High School and Elementary Schools are not fully air-conditioned --only the administrative wings are.

2. Lack of Communication - Most of the problems parents have experienced at ACA, including the above-mentioned need for a new school, have a common factor of a basic lack of communication between administration, teachers, and parents. This lack of communication is evident in each problem or crisis and contributes to

frustrations, rumors, and frequent misunderstandings. Discussing a problem with an individual teacher is usually positive. Both teachers and administrators are usually accessible and willing to talk with parents. The frustration comes when one cannot get a definite answer or is given two different answers to the same question. Some of these communication problems could be avoided with regularly scheduled faculty meetings at the Antilles Elementary School and Middle School instead of the current practice of calling special (infrequent) meetings to discuss a particular issue or administrative directive. Scheduled monthly meetings could serve as an open forum to discuss mutual concerns that would benefit the overall educational program planning.

The communication problem is very evident in the apparent lack of future planning. The Middle School building problem has been an issue for 11 years. The following example illustrates some of our problems and the resulting frustrations. The Army demolished several of the most hazardous barracks last summer (1976). This action forced special education classes to be relocated in the Elementary School. Relocation was achieved by moving three kindergarten classes to other sites on the base and by having one kindergarten class at the Sabana Seca Communications Facility so a bus would not be required for these children. At school registration on 9 August 1976, no one in the administration could tell the parents where their kindergarten children would be. The Superintendent's office never sent a communique saying where these kindergarten classes were located, any of the reasons for the change, or asking for our cooperation during the year. At an open house on 14 October 1976, there were still parents who did not know that their kindergarten children were not at the Elementary School. The kindergarten children were almost never included in Elementary School programs, science or art fairs, or field-day activities. Chalk boards and American flags were not installed in the classrooms until late October 1976. At one site, playground equipment was not installed until March 1977.

In previous years the bussed kindergarten students arrived at the Elementary School and immediately went to the upper playground for grades K through 2. This year they waited on the roadside by the main bus entrance to the Elementary School. Here they were exposed to the exhaust fumes of the 34 passing busses while an aide kept them grouped together. When bus traffic permitted, they were allowed to play on the lower playground, competing with third- and fourth-grade students for swings. If at the beginning of the school year these problems and decisions had been explained to parents, we possibly could have assisted in helping the children adjust to the situation. Informed parents are cooperative parents.

Another example of poor communication is the HEW Office of Education's response to every parental inquiry. Many of us have received identical form letters that neither answer our specific questions nor acknowledge our unique problems. The need for a new school was not created by additional construction of on-base family quarters on Fort Buchanan, as stated in Mr. William Stormer's letter in the Appendix. There are 361 family quarters; of these, 23 are presently vacant and 25 are occupied by civilian personnel (i.e., school teachers). The last section of housing was completed in 1964. There are no plans for future construction of family quarters.

Under PL 81-874 and PL 81-815, the HEW Office of Education has the responsibility for our children's education. For 11 years parents have been told by the Office of Education to make do with rat- and bat-infested, termite-ridden buildings for grades 5 through 8. The only alternative offered by the Office of Education is to go on double sessions. At present, 1,494 (79%) of the students are bussed. These children live in the greater San Juan area; many board busses as early as 6:15 AM to meet 8 AM classes and return home as late as 3:35 PM after 2:15 PM school closing. The distances involved and the traffic patterns in the San Juan area make it impractical, if not impossible, to bus 79% of the students for double sessions (see bus map in the Appendix).

Problems with the Administration of ACSS

1. The School Board - The ACSS school board consists solely of Rear Admiral Flanagan. This arrangement is unsatisfactory for two reasons. First, the present incumbent is not an educator; second,

even if he were, there is no representation on the school board of any other shade of opinion, specifically civilian opinion. Most of the children in ACS are dependents of civilian, not military, personnel. Civilian personnel do not have the same unquestioning attitude toward orders as military personnel. To properly reflect the composition of the students and balance the situation, the school board should consist of, at the minimum, two civilians besides the military representative. These civilians would most appropriately be the heads of those Federal agencies with the largest numbers of employees having dependents in ACS. These are the Veterans Administration, and either the Federal Aviation Agency or the FBI.

The existing one-man school board is not responsive to the advice of the school council (which is composed of military and civilian agency representatives) and has prevented the expansion of the school council to include an additional civilian member. One Federal agency that has asked for representation and has been denied is the Immigration and Naturalization Service. Nor does the School Board appear to understand the importance of the hearings of this Subcommittee to the future of the ACSS. As far as we are aware, the Board has not submitted any written testimony, nor has it requested time for oral presentations.

2. The School Council - The School Council advises the school board and at present consists of representatives of nine military

and four civilian agencies. For the same reason as given above, this ratio or representation on the school council should be made consistent with the make-up of agencies served by the schools in the system.

3. The Superintendent - Under the present circumstances, the Superintendent of ACSS knows that he is accountable directly to the school board, that is, the Admiral, and that he need not take account of the views of either the school council, the teachers, or the parents. This has led to unilateral decisions on the educational program offerings and vital ancillary services. To name only three recent unilateral decisions:

a. The dropping of the industrial arts program at the Antilles Middle School.

b. The reduction of the nursing force from three nurses (one for each of the Antilles Schools) to two nurses only, one of whom also serves as Head Nurse and who regularly visits the Roosevelt Roads, Fort Allen, and Ramey Base schools. (Refer to the Appendix for communication and directive concerning the nursing changes.)

c. The dispersal of the Middle School media center (library and audiovisual aids) with the transfer of the librarian to other duties.

All these decisions were made without any consultation of the school council, the teachers, or the parents. Even if such decisions are inevitable in the light of budgetary and other considerations, the school council, the teachers, and the parents are entitled to be consulted in advance and given reasons for such decisions, so that the best possible alternative arrangements for the good of the students can be made. We do not appreciate being faced with a fait accompli.

We would like to place on record the fact that the ACSS Administration has been associated with a significant improvement in the quality of educational program offerings in recent years, and has made the best of the deplorable physical plant conditions in the Middle School at Fort Buchanan. However, the parents would welcome much greater efforts on the part of the ACSS Administration to inform and consult us on the changes in the school curriculum and the services before final decisions are made.

4. The Parents - Parents have been discouraged to unite in an organization to actively work for a better Middle School building. The Privacy Act has prevented us from obtaining names, addresses, and telephone numbers from either the school offices or the classroom teachers. In March 1977, we were told that all notices sent home with children on school busses had to be approved by the school board (Admiral Flanagan); only salaried personnel of ACSS could submit notices for approval. Many parents have been hesitant to actively exercise their democratic right to help work for improved school conditions. Frequently, rumors flourish that by engaging in such activity, we may be place our positions or our husbands' positions in jeopardy.

There is a marked contrast between the responsiveness of the administrations of public schools in the continental United States to the advice and desires of the parents of their students, and the total lack of responsiveness of the administration and school board of the Antilles Consolidated School System. We have indicated above some ways in which this situation could be remedied.

CONCLUSIONS - In conclusion, our children's well-being and education are vital concerns. The ACS makes it possible for us to live and work in Puerto Rico. Our children are receiving a good English language education and preparation for transfer or eventual return to stateside schools.

We have described several of the problems experienced by students, parents, and the teachers at ACS. For ACS to continue to be a recruitment incentive for Federal personnel coming to Puerto Rico, these conditions require improvement and immediate action. For eleven years ACS has been unable to obtain a desperately needed new school. Our children are the potential leaders of America and deserve better school facilities than they have been forced to accept. As parents, we are not interested in additional fact-finding teams to assess and place the responsibility or blame for this inattention to one of our children's most basic needs. We need action.

RECOMMENDATIONS - We need the HEW Office of Education to approve a new school for the Antilles Consolidated Schools at Fort Buchanan.

We need Congress to appropriate the required funds to construct this school. And we need the ACSS Board, Council, and Administration to do their part in securing a new school for our children.

As parents and taxpayers who support ACS, we want our schools to function economically and efficiently in the best interests of our children with open communication between administration, teachers, and parents. There are two ways this can be achieved.

1. Expand the school board and school council to have Federal agency representation proportionate with civilian enrollment.
2. Enlarge and strengthen the parents' organization.

As parents we plan to enroll interested parents in our organization during registration on 8 August 1977. With names and addresses we can send a parents organization newsletter announcing our meetings, ACS calendar of monthly events, and suggestions of ways in which we can cooperate with ACS for the educational benefit and enrichment of our children. It is our hope to involve the school administration, teachers and parents working together for the continued improvement of our children's education.

Thank you very much for your interest and cooperation, and we are now free to answer any questions which you may have.

[Attachments to statement of Mrs. Moore follow:]

TABLE 1
CONTRIBUTION OF MILITARY AND CIVILIAN FEDERAL AGENCIES TO STUDENT ENROLLMENT AT ANTILLES CONSOLIDATED SCHOOLS, FORT BUCHANAN, PUERTO RICO.

DATA FOR 1976-77 SCHOOL YEAR

Agency	Elementary School	Middle School	High School	Total
Army	141 (20)*	125 (19)	98 (18)	364 (19)
Navy	99 (14)	66 (10)	29 (5)	194 (10)
Marine Corps	3 (.4)	3 (.5)	2 (.4)	8 (.4)
Coast Guard	42 (6)	33 (5)	24 (5)	99 (5)
Air Force	28 (4)	14 (2)	11 (2)	53 (3)
Total Military	313 (45)	241 (37)	164 (31)	718 (38)
Civilian Agencies**	387 (55)	418 (63)	366 (69)	1,171 (62)
Total enrollment	700(100)	659 (100)	530(100)	1,889 (100)

*Number of students (percent of total)

**Including qualifying dependents from 52 Federal agencies in the San Juan area.

FACT SHEET ON THE ANTILLES MIDDLE SCHOOL

1. Antilles Middle School (AMS) is located in Fort Buchanan, Puerto Rico.

2. AMS is made up of 637 students in grades 5-8.

3. AMS is part of the Antilles Consolidated School System (ACSS) which is operated by the U.S. Office of Education; funded by HEW and run by the U.S. Navy.

4. The classes at AMS have been housed in 36 year old temporary barracks, on loan from the Army, since 1966.

5. These barracks/classrooms are termite-ridden, bat and rat infested. They have been a safety and health hazard to our students and teachers for the past 10 years.

6. These barracks have been declared unsafe by the Army engineers and will be destroyed this summer.

7. The U.S. Army owns these buildings, so they are not responsible for their repair and upkeep for the purpose of classroom use.

8. HEW is the agency responsible for providing classrooms to the Antilles Consolidated School System, but since these buildings are not owned by HEW, there is no money available for repair work, even if this were feasible.

9. The students attending the Antilles Consolidated School System (ACSS) are eligible by virtue of Subsection 6(c) of Public Law 81-874.

10. Section 6 of Public Law 874 states that eligible students must be provided an education comparable to that provided in the public schools of the District of Columbia, whose system is financed by Congress.

11. Two thirds (2/3) of the students at the school are from non-military families (i.e.: the father works for the federal government and is subject to transfer). Generally these families live off base and the children are bussed to school.

12. The enrollment at ACSS has stabilized since 1972, and there is no reason to anticipate a downward trend.

13. In 1966 an application was submitted to the U.S. Office of Education for a new junior-senior high school. Final plans and specifications were approved on October 21, 1969. The

funds were subsequently frozen by former President Nixon. Therefore ours is the oldest project on a list of applications under Section 10 of Public Law 81-815 (building on a military reservation) that has been approved in prior years but never funded.

14. Since the prospect of a new junior senior high school has been in abeyance, immediate Congressional action was needed to fund portables to replace those delapidated structures which housed the children of the middle school. The House has agreed to the Committee on Appropriations' request for $360,000. to fund these portable structures. Hopefully the Labor/HEW Appropriations bill which will be sent to the President for his signature will contain this provision. This is a temporary, eleventh hour solution to a much greater problem of neglect and disregard. Our final goal is the funding of the junior senior high school which we have been waiting for for 11 years.

ANTILLES CONSOLIDATED SCHOOLS AT FORT BUCHANAN, PUERTO RICO

PARENTS ORGANIZATION FOR QUALITY EDUCATION AT BUCHANAN SCHOOLS

P. O. Box 34347

Fort Buchanan, Puerto Rico 00934

TESTIMONY BEFORE

CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

COMMITTEE ON EDUCATION AND LABOR

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

23 JUNE 1977

WASHINGTON, D.C.

ANTILLES CONSOLIDATED SCHOOLS AT FORT BUCHANAN, PUERTO RICO

Parents Organization for Quality Education at Buchanan Schools

We represent the recently formed Parents Organization for Quality Education at Buchanan Schools. These schools are part of the Antilles Consolidated School System (ACSS) in Puerto Rico operated by the Office of Education in the Department of Health, Education, and Welfare (HEW). The Antilles Consolidated Schools (ACS) at Fort Buchanan are unique in many respects and differ from other PL 81-874 Section 6 schools. Our uniqueness and differences have created and contributed to some of the problems and frustrations the school, the teachers, and the parents have experienced. Along with our analysis of the problems, we will offer constructive criticism and suggestions of how we can all help so the school system can be improved and our children can benefit from the high quality education to which they are entitled.

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Funds are provided to the HEW Office of Education under section 6 of PL 81-874. These funds are administered by Rear Admiral William R. Flanagan, Commander, Naval Forces Caribbean, Roosevelt Roads Naval Station, Puerto Rico. Most (62%) of the total ACS enrollment are Federal agency dependents. A detailed breakdown of enrollment is shown in Table 1. There are 52 Federal agencies in the San Juan area. Of the 38% military dependent enrollment, half are Army dependents that live in the 361 family quarters located on Fort Buchanan.

Alternatives to ACS - The Federal dependents need ACS. What would be the alternatives if there were no ACS?

1. Public Schools - The Puerto Rico public school system is underfunded and overcrowded. The Puerto Rico public schools receive $400/student compared to the $2,060/student ACS receives. One-quarter of the Puerto Rican high school age students do not attend school, and there is no classroom space to accommodate them if they desired to attend.[1] The Puerto Rican public schools teach in Spanish and are unable to provide English language education to prepare students for transfer or eventual return to stateside schools. Puerto Rico has some pilot experimental programs to aid the returning Neorican to reenter Puerto Rico. These programs are not geared to aid the transient Federal dependent.

2. Private Schools - The San Juan area has many excellent private Spanish and English parochial and nonsectarian schools. If Section 6

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[1] Figures on public schools were provided by Mr. Carlos Chardon, Secretary of Education, Commonwealth of Puerto Rico, in a speech before the Federal Executives Assocation, San Juan, P.R., 19 May 1977

schools should be phased out and if tuition reimbursement or vouchers could be issued, these schools could probably be used by the Federal agencies in Puerto Rico, if given sufficient lead time. Attending Spanish language schools would require major adjustment by some newly arrived children. Many of the private schools have long waiting lists and limit their student body to those of the same religious faith. At this time the public and private schools in the San Juan area are unequipped and unprepared to enroll 1,200 additional students.

Advantages of ACS - Federal employees have lived all over the world. Many who come to Puerto Rico have a Spanish cultural background. There is a grand mixture at ACS--so mixed that everyone is a minority. Multicultural pride and understanding can grow in this type of situation. Seventy-five percent of the ACS students live in a home with at least one Spanish-speaking parent; for half of these students, Spanish is their first language. The ACS has provided and continues to provide a good all-around English education for these students. Beginning in the third grade, Spanish is part of the curriculum; most of the ACS students are bilingual.

ACS has long enjoyed the reputation of offering a varied and challenging curriculum tempered with electives and extracurricular activities that provide quality education for our children. Many parents of ACS students have college degrees; many are professional people. Our children may elect not to enter college, but we want them prepared for and equipped to succeed in a university program should they wish to do so.

ACS offers an exciting summer school program that students eagerly await. This program consists of remedial and make-up courses, exploratory and enrichment courses, and health, safety, and recreation courses. Students are stimulated and encouraged to broaden their horizons and interests.

There are many innovative teachers who enrich their classes and activities. Possibly, Puerto Rico's geographic location and image as an exotic island in the Caribbean attract an adventuresome faculty. The teacher salary scale is comparable to that in the District of Columbia. This scale is higher than either public or private Puerto Rican schools. ACS can therefore afford to be selective and to hire the best qualified teachers. In Puerto Rico the specialized programs are very important--libraries, music, art, physical education, industrial arts, drama, nursing services, special reading, speech therapy, counseling, and multilevel courses.

A good school system is a recruitment incentive for Federal families with school-age children to work in Puerto Rico. When our children are happy and developing well in school programs, we parents can enjoy living and working in Puerto Rico.

Problems of ACS - We have two problems with our children's education in ACS:

1. Demolition of ACS Middle School - The permanent Elementary School and High School buildings were constructed by the HEW Office of Education and are located on land which has been deeded to the Department of Health, Education, and Welfare. In contrast, the Middle School classes have been housed since 1966 in old wooden Army barracks

which were built in 1942 with an expected use period of 10 years. During the Vietnam conflict, the enrollment at the Elementary and Junior-Senior High School jumped drastically, and immediate relief was needed for housing the influx of students. Naturally, HEW could not erect a permanent building overnight. When the Army generously offered the use of the old barracks for the school's purpose, it seemed that a temporary solution had been found. At the same time, an application for a new Junior-Senior High School on the base was accepted by the Office of Education and, subsequently, the final plans were approved 21 October 1969. Unfortunately, the money needed for construction under Section 10 of PL 81-815 was frozen by then-President Nixon, and our school now claims the dubious distinction of having the oldest project on a list of building applications that has been approved, but never funded.

The Army barracks housing the Antilles Middle School have continued to deteriorate with time, to the point that they are now condemned and will be demolished commencing 1 July 1977. And rightfully so. This situation was only tolerated because every year it was expected that the freeze on new school construction would be lifted and the plans approved in 1969 would be implemented. Meanwhile, for 11 years the students in these condemend buildings have been exposed to the following life and safety hazards:

1. Buildings with deteriorated piers and below-floor structural members, liable to collapse from advanced decay alone or under the stress of major storms (Puerto Rico is in the hurricane belt).

2. Combustible buildings with unsafe electrical wiring, corridors that are narrower than the legal minimum, and no manually operated fire alarm system.

3. Buildings infested with bats and rats and contaminated with their excrement. Bat excrement harbors histoplasma, which produces histoplasmosis, a sometimes fatal lung infection. Rats carry leptospirosis, a disease which may result in fatal hepatitis.

4. Buildings surrounded by open drainage ditches, a source of disease-carrying mosquitoes.

Our children and their teachers have been subjected to the ever present danger of these bat-, rat-, and termite-infested buildings for too long. It is inconceivable that the Federal Government has been willing to educate our children in these deplorable conditions.

Toward the end of the school year 1975-76, the administration announced that several of the old barracks were to be torn down during the summer recess. Because the parents were concerned about possible overcrowding and loss of some special services, they became loosely organized in hopes of bettering communication between parents, teachers, and the administration in order to solve problems that might arise. But when classes resumed in the fall or 1976 and the Army gave eviction notice to the Middle School, the Concerned Parents Group actively took part in finding a solution for the housing of 637 Middle School students. First, an open house at the Elementary School drew a large crowd. A panel discussion outlined the status of the Middle School buildings, the importance of keeping grades 5-8 separate from the lower and upper grades, and the administration's alternative solutions to the problems The proposed solutions were (1) double sessions, (2) classes all year on the 45-15 plan, (3) portable classrooms, and (4) ask the Army for any other unused buildings.

The portable classrooms were favored by the parents until such time as the new Junior-Senior High School could be funded and constructed, but HEW still did not have the funds available under PL 81-815. During the next 6 months additional meetings were held, speeches were given, and letters were written to find an answer to the problem. The first meeting with Resident Commissioner-elect Baltazar Corrada del Rio was most fruitful and eventually resulted in the arrival in Washington of two mothers whose main concern was to lobby for the funds needed for portable classrooms. By this time, the Concerned Parents Group had become the Parents Organization for Quality Education at Buchanan Schools, having surmounted the obstacle of reaching the parents through 52 Federal agencies. With the help of Resident Commissioner Corrada del Rio, the parents were successful in having language put into the HEW appropriations bill, HR 7555. When this legislation is enacted, we will receive financial aid to construct portable classrooms.

Until the time that the portable classrooms can be erected, however, the Antilles Middle School will be spread out over a distance of 1-1/2 miles, from the Elementary School to the High School (see Fort Buchanan map in the Appendix). The fifth grade will be absorbed into the Elementary School, thus creating overcrowded conditions. The sixth grade will be housed in two buildings scheduled for demolition in 1978. The seventh and eighth grades will occupy half of the U.S. Army Reserve building in front of the high school. Since this building is used by the USAR at night and on weekends, students and teachers will not be allowed to keep supplies or materials in the rooms. The corridor of the USAR building is so narrow that the students will remain in the classrooms and the teachers will change classes. No one in the administration has answered our questions on the fire and safety hazards. Two other buildings in that area are being readied for use, one of which floods during heavy rains, which are frequent in Puerto Rico.

The portable classrooms will relieve this strain when and if they are made available, hopefully by January 1978. But this type of building will not last indefinitely in the tropics, so it is necessary to begin construction as soon as possible on the proposed Junior-Senior High School.

In his In-depth Study of School Facilities, Dr. James Woofter of the HEW Office of Education emphasizes the need for a new Junior-Senior High School. He points out that the Middle School is not up to the Life Safety Code and the American National Standard Institute (A117.1-1961 (R1971) - Architectural Barriers to the Physically Handicapped. Although scheduled for release 15 May 1977, this report still has not been released. The preliminary report is an adequate analysis of the problems and needs of ACS. The only error we can find is that the High School and Elementary Schools are not fully air-conditioned--only the administrative wings are.

2. Lack of Communication - Most of the problems parents have experienced at ACS, including the above-mentioned need for a new school, have a common factor of a basic lack of communication between administration, teachers, and parents. This lack of communication is evident in each problem or crisis and contributes to frustrations,

rumors, and frequent misunderstandings. Discussing a problem with an individual teacher is usually positive. Both teachers and administrators are usually accessible and willing to talk with parents. The frustration comes when one cannot get a definite answer or is given two different answers to the same question. Some of these communication problems could be avoided with regularly scheduled faculty meetings at the Antilles Elementary School and Middle School instead of the current practice of calling special (infrequent) meetings to discuss a particular issue or administrative directive. Scheduled monthly meetings could serve as an open forum to discuss mutual concerns that would benefit the overall educational program planning.

The communication problem is very evident in the apparent lack of future planning. The Middle School building problem has been an issue for 11 years. The following example illustrates some of our problems and the resulting frustrations. The Army demolished several of the most hazardous barracks last summer (1976). This action forced special education classes to be relocated in the Elementary School. Relocation was achieved by moving three kindergarten classes to other sites on the base and by having one kindergarten class at the Sabana Seca Communications Facility so a bus would not be required for these children. At school registration on 9 August 1976, no one in the administration could tell the parents where their kindergarten children would be. The Superintendent's office never sent a communique saying where these kindergarten classes were located, any of the reasons for the change, or asking for our cooperation during the year. At an open house on 14 October 1976, there were still parents who did not know that their kindergarten children were not at the Elementary School. The kindergarten children were almost never included in Elementary School programs, science or art fairs, or field day activities. Chalk boards and American flags were not installed in the classrooms until late October 1976. At one site, playground equipment was not installed until March 1977.

In previous years the bussed kindergarten students arrived at the Elementary School and immediately went to the upper playground for grades K through 2. This year they waited on the roadside by the main bus entrance to the Elementary School. Here they were exposed to the exhaust fumes of the 34 passing busses while an aide kept them grouped together. When bus traffic permitted, they were allowed to play on the lower playground, competing with third- and fourth-grade students for swings. If at the beginning of the school year these problems and decisions had been explained to parents, we possibly could have assisted in helping the children adjust to the situation. Informed parents are cooperative parents.

Another example of poor communication is the HEW Office of Eucation's response to every parental inquiry. Many of us have received identical form letters that neither answer our specific questions nor acknowledge our unique problems. The need for a new school was not created by additional construction of on-base family quarters on Fort Buchanan, as stated in Mr. William Stormer's letter in the Appendix. There are 361 family quarters; of these, 23 are presently vacant and 25 are occuped by civilian personnel (i.e., school teachers). The last section of housing was completed in 1964. There are no plans for future construction of family quarters.

Under PL 81-874 and PL 81-815, the HEW Office of Education has the responsibility for our children's education. For 11 years parents have been told by the Office of Education to make do with rat- and bat-infested, termite-riddled buildings for grades 5 through 8. The only alternative offered by the Office of Education is to go on double sessions. At present, 1,494 (79%) of the students are bussed. These children live in the greater San Juan area; many board busses as early as 6:15 a.m. to meet 8 a.m. classes and return home as late as 3:35 p.m. after 2:15 p.m. school closing. The distances involved and the traffic patterns in the San Juan area make it impractical, if not impossible, to bus 79% of the students for double sessions (see bus map in the Appendix).

Problems with the Administration of ACSS

1. The School Board - The ACSS school board consists solely of Rear Admiral Flanagan. This arrangement is unsatisfactory for two reasons. First, the present incumbent is not an educator; second, even if he were, there is no representation on the school board of any other shade of opinion, specifically civilian opinion. Most of the children in ACS are dependents of civilian, not military, personnel. Civilian personnel do not have the same unquestioning attitude toward orders as military personnel. To properly reflect the composition of the students and balance the situation, the school board should consist of, at the minimum, two civilians besides the military representative. These civilians would most appropriately be the heads of those Federal agencies with the largest numbers of employees having dependents in ACS. These are the Veterans Administration, and either the Federal Aviation Agency or the FBI.

The existing one-man school board is not responsive to the advice of the school council (which is composed of military and civilian agency representatives) and has prevented the expansion of the school council to include an additional civilian member. One Federal agency that has asked for representation and has been denied is the Immigration and Naturalization Service. Nor does the School Board appear to understand the importance of the hearings of this Subcommittee to the future of the ACSS. As far as we are aware, the Board has not submitted any written testimony, nor has it requested time for oral presentations.

2. The School Council - The school council advises the school board and at present consists of representatives of nine military and four civilian agencies. For the same reason as given above, this ratio or representation on the school council should be made consistent with the make-up of agencies served by the schools in the system.

3. The Superintendent - Under the present circumstances, the Superintendent of ACSS knows that he is accountable directly to the school board, that is, the Admiral, and that he need not take account of the views of either the school council, the teachers, or the parents. This has led to unilateral decisions on the educational program offerings and vital ancillary services. To name only three recent unilateral decisions:

a. The dropping of the industrial arts program at the Antilles Middle School.

b. The reduction of the nursing force from three nurses (one for each of the Antilles Schools) to two nurses only, one of whom also serves as Head Nurse and who regularly visits the Roosevelt Roads, Fort Allen, and Ramey Base schools. (Refer to the Appendix for communication and directive concerning the nursing changes.)

c. The dispersal of the Middle School media center (library and audiovisual aids) with the transfer of the librarian to other duties.

All these decisions were made without any consultation of the school council, the teachers, or the parents. Even if such decisions are inevitable in the light of budgetary and other considerations, the school council, the teachers, and the parents are entitled to be consulted in advance and given reasons for such decisions, so that the best possible alternative arrangements for the good of the students can be made. We do not appreciate being faced with a fait accompli.

We would like to place on record the fact that the ACSS Administration has been associated with a significant improvement in the quality of educational program offerings in recent years, and has made the best of the deplorable physical plant conditions in the Middle School at Fort Buchanan. However, the parents would welcome much greater efforts on the part of the ACSS Adminsitration to inform and consult us on the changes in the school curriculum and the services before final decisions are made.

4. The Parents - Parents have been discouraged to unite in an organization to actively work for a better Middle School building. The Privacy Act has prevented us from obtaining names, addresses, and telephone numbers from either the school offices or the classroom teachers. In March 1977, we were told that all notices sent home with

children on school busses had to be approved by the school board (Admiral Flanagan); only salaried personnel of ACSS could submit notices for approval. Many parents have been hesitant to actively exercise their democratic right to help work for improved school conditions. Frequently, rumors flourish that by engaging in such activity, we may be placing our positions or our husbands' positions in jeopardy.

There is a marked contrast between the responsiveness of the administrations of public schools in the continental United States to the advice and desires of the parents of their students, and the total lack of responsiveness of the administration and school board of the Antilles Consolidated School System. We have indicated above some ways in which this situation could be remedied.

Conclusions - In conclusion, our children's well-being and education are vital concerns. The ACS makes it possible for us to live and work in Puerto Rico. Our children are receiving a good English language education and preparation for transfer or eventual return to stateside schools.

We have described several of the problems experienced by students, parents, and teachers at ACS. For ACS to continue to be a recruitment incentive for Federal personnel coming to Puerto Rico, these conditions require improvement and immediate action. For 11 years ACS has been unable to obtain a desperately needed new school. Our children are the potential leaders of American and deserve better school facilities than they have been forced to accept. As parents we are not interested in additional fact-finding teams to assess and place the responsibility or blame for this inattention to one of our children's most basic needs. We need action.

Recommendations

We need the HEW Office of Education to approve a new school for the Antilles Consolidated Schools at Fort Buchanan. We need Congress to appropriate the required funds to constructthis school. And we need the ACSS Board, Council, and Administration to do their part in securing a new school for our children.

As parents and taxpayers who support ACS, we want our schools to function economically and efficiently in the best interest of our children with open communication between administration, teachers, and parents. There are two ways this can be achieved.

1. Expand the school board and school council to have Federal agency representation proportionate with civilian enrollment.
2. Enlarge and strengthen the parents' organization.

As parents we plan to enroll interested parents in our organization during registration on 8 August 1977. With names and addresses we can send a parents organization newsletter announcing our meetings, ACS calendar of monthly events, and suggestions of ways in which we can cooperate with ACS for the educational benefit and enrichment of our children. It is our hope to involve the school administration, teachers, and parents working together for the continued improvement of our children's education.

TABLE I
CONTRIBUTION OF MILITARY AND CIVILIAN FEDERAL AGENCIES TO STUDENT ENROLLMENT AT ANTILLES CONSOLIDATED SCHOOLS, FORT BUCHANAN, PUERTO RICO.

DATA FOR 1976-77 SCHOOL YEAR

Agency	Elementary School		Middle School		High School		Total	
Army	141	(20)*	125	(19)	98	(18)	364	(19)
Navy	99	(14)	66	(10)	29	(5)	194	(10)
Marine Corps	3	(.4)	3	(.5)	2	(.4)	8	(.4)
Coast Guard	42	(6)	33	(5)	24	(5)	99	(5)
Air Force	28	(4)	14	(2)	11	(2)	53	(3)
Total Military	313	(45)	241	(37)	164	(31)	718	(38)
Civilian Agencies**	387	(55)	418	(63)	366	(69)	1,171	(62)
Total enrollment	700	(100)	659	(100)	530	(100)	1,889	(100)

*Number of students (percent of total)

**Including qualifying dependents from 52 Federal agencies in the San Juan area.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
REGION II
FEDERAL BUILDING
26 FEDERAL PLAZA
NEW YORK, NEW YORK 10007

OFFICE OF EDUCATION

August 2, 1976

Mrs. Robert Dwyer
1808 San Rodulfo
San Juan, Puerto Rico 00927

Dear Mrs. Dwyer:

I received your letter of July 25, 1976 and can assure you that I share your concern.

The antilles Middle School Campus has been a problem area for many years, and we have tried to arrive at a solution, but to no avail.

As you know, Public Law 815, the School Construction Act, has suffered from critical funding shortages for several years, and I have been informed on many occasions that there are no funds available with which to alleviate the deplorable conditions at the school.

I regret that I must respond to your letter in this manner, however, I can offer no solution at this time.

The U.S. Office is currently conducting an in-depth analysis of conditions of military base schools, and final recommendations will be sent to the Secretaries of the Department of Health, Education and Welfare and the Department of Defense. The recommendations, however, will be no guarantee that the required construction funds will be made available.

I am sending a copy of this letter and am taking the liberty of enclosing a copy of your letter to our Central Office.

Thank you for your interest and concern in this important matter.

Yours truly,

Robert R. Watkins
Robert R. Watkins
Senior Program Officer

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

AUG 9 1976

Mrs. Robert Dwyer
1808 San Rudolfo
San Juan, Puerto Rico 00927

Dear Mrs. Dwyer:

The Acting Commissioner's office has referred your letter of July 25 concerning the middle school at Fort Buchanan to this office for reply.

The program within the Office of Education responsible for alleviating the conditions described in your letter is the school construction program authorized under Public Law 81-815. However, that program has been short funded since Fiscal Year 1967, a condition which has had a direct bearing on our inability to fund an eligible application to construct new schoolhousing facilities to replace the temporary wooden buildings made available on Fort Buchanan several years ago by the Department of the Army. Incidentally, the use of those temporary facilities was not suggested by the Office of Education. Rather, their use represents an arrangement between the Antilles Consolidated School System which operates them and the local military command, in lieu of what to them seemed like less desirable alternatives. The Office of Education neither sanctioned nor disapproved the arrangement.

Following the initial request for new junior-senior high school facilities in June of 1966 under Section 10 of Public Law 81-815, a number of factors caused delays to occur in the provision of those facilities. A construction project was authorized tentatively in September of 1966; however, at the request of the Federal installation, and after review by this office, the proposed project was reviewed and enlarged twice because of increased pupil membership requirements. Ultimately, final plans and specifications for the enlarged project were approved in October of 1969. However, due to limitations imposed upon obligations and expenditures as a result of Public Laws 90-218 and 90-364, coupled with the President's Construction Reduction Plan, it was not possible to proceed further with the project in Fiscal Year 1970.

Subsequently, it became necessary to classify all Section 10 school construction projects, including those previously approved but for which construction contracts had not been awarded and funds therefor obligated, according to their relative priority. That action was influenced by two factors: First, Public Law 91-230, approved April 13, 1970, amended Public Law 81-815 to make applications under subsections 14(a) and 14(b) of that Act equal in priority for payment purposes to applications filed under Section 10. Second, it was and remains apparent that appropriated funds are not sufficient to fund all applications under Sections 9, 10, and 16, and those under subsections 14(a) and 14(b) which, by priorities established in the Act, must be funded before any other applications may be considered.

In the period from Fiscal Year 1967 to the present, appropriations for impacted area school construction have been made in amounts ranging from $13 million to $20 million annually. That level of funding has enabled this division to meet only a few of the highest priority construction needs as prescribed in the basic law. With respect to the direct federal construction of school facilities on military installations, those restrictions became more stringent in Fiscal Year 1972 when appropriations language was inserted which required that practically all of the Public Law 81-815 funds made available be expended to fund applications eligible under Sections 5 and 14 of the Act, thus leaving only about $1 million per year for emergency repairs to existing school facilities that had been previously constructed under Section 10. Repair of the temporary wooden facilities at Fort Buchanan has not been appropriate because they were not constructed with funds authorized under Section 10, nor are they under permit to the Commissioner of Education. Applications under Section 5 of the Act (grants to local educational agencies serving military installations) were not fundable from Fiscal Year 1968 through 1971.

In 1969 we realized, in the face of short funding, that we were receiving and would continue to receive requests for the use of alternative procedures to provide needed school facilities on Federal property. Those alternative procedures were expected to include the rehabilitation of existing non-school facilities and other methods that would seek to accomplish by indirection that which could not be accomplished by direction, i.e., the construction of needed new school facilities. We also realized that children attending on-post school facilities might be forced into double-session attendance patterns because of the lack of adequate facilities, or that other undesirable arrangements might have to be made.

Despite the imminence of these undesirable conditions, including those known to exist at Fort Buchanan, the Deputy Associate Commissioner, Bureau of Elementary and Secondary Education, approved a policy statement whereby this division would not authorize any expenditure of funds under Section 10 of Public Law 81-815, or under Section 6 of Public Law 81-874, for the purpose of providing additional school facilities on Federal property through purchasing, leasing, renovating, remodeling or rehabilitating any existing structure to provide additional classroom space. That policy statement was approved January 3, 1970 and is still in effect.

The Public Law 81-815 program is designed to provide school facilities for unhoused children for whom such facilities have not been provided previously. The Public Law 81-874 program provides funds for the maintenance and operation of such facilities. The two laws are not designed to be used interchangeably. That is to say, if the objectives of the first law cannot be accomplished, for whatever reason, the second law should not be allowed to take over to fill in the gap.

The situation at Fort Buchanan is not unlike that at various other military installations where the continued construction of on-post military housing, and the resultant increase in pupil population, have aggravated an existing schoolhousing shortage. We do not know if or when funds will become available to remedy it.

We realize that the Antilles Consolidated School System may have to resort to other measures as an alternative to the continued use of makeshift wooden facilities provided by the military command at Fort Buchanan. However, the possibility does not remove the fact that we are unable to remedy the schoolhousing shortage at Fort Buchanan with funds currently available.

Sincerely yours,

William L. Stormer

William L. Stormer
Director, School Assistance
in Federally Affected Areas

February 15, 1977

The Honorable Joseph A. Califano, Jr.
Secretary
Department of Health, Education & Welfare
3 3 0 Independence Avenue
Washington, D. C. 20201

Dear Mr. Secretary:

I would like to bring a pressing matter to your attention, in hopes that a solution can be found in the very near future. Over 650 of my constituents are educated by the Antilles Middle School, located in Fort Buchanan, Puerto Rico. The school serves mainly children of military and civilian federal employees. If immediate action is not forthcoming soon, the school will be forced to cease operations.

The Middle School has been operating in sub-standard, termite-ridden buildings, some of which have already been condemned. Several buildings which house the 5th graders have been scheduled for demolition. The policy of neglect and omission by the Department of Health, Education and Welfare has led to overcrowding, double sessions, lack of facilities, and a poor learning environment. The end result will be a total elimination of facilities.

I am enclosing a copy of a plea, presented to me last December in Puerto Rico by parents of schoolchildren at the Middle School. I hope that this will give you additional background information.

I urge you to have the pertinent officials within the U.S. Office of Education look into this matter at your earliest convenience. I would appreciate meeting these persons and further discussing this situation which up to now has reflected very pporly on the type of education and support which HEW offers. I sincerely hope that in the name of better education we can reverse this record and provide these children with proper facilities and schooling.

Thanking you for your cooperation, I remain

Cordially,

Baltasar Corrada
Member of Congress

Enclosure
ED: Middle School (Ft. Buchanan)
JAU/bas

BALTA[illegible] CORRADA
Resident Commissioner, Puerto Rico

Joaquín A. Márquez
Administrative Assistant

Committees:
EDUCATION AND LABOR
INTERIOR AND INSULAR AFFAIRS

Congress of the United States
House of Representatives
Washington, D.C. 20515

Washington Office:
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Washington, D.C. 20515
Area Code: [illegible]

District Offices:
New Federal Building
P.O. Box [illegible]
Hato Rey, Puerto Rico 00918
Area Code: [illegible]

P.O. Box [illegible]
Ponce, Puerto Rico 00731
Area Code: [illegible]

April 4, 1977

Mrs. Patricia K. Moore
GPO Box 4532
San Juan, Puerto Rico 00936

Dear Mrs. Moore:

I truly appreciate your letter of March 26th, in which you provide me with background information on the condition and problems related to the Antilles Middle School at Fort Buchanan.

For months I have been working on this particular issue, which hopefully will be resolved in the near future. I am enclosing a copy of the letter I sent to the Secretary of HEW Califano on the subject, his response; and also a copy of the letter I sent to the Chairman of the House Education and Labor Committee, Carl D. Perkins. I will be meeting shortly with Dr. Thomas Burns on this particular issue, to explore the various alternatives which could be followed to resolve this critical situation.

The Subcommittee on Elementary, Secondary and Vocational Education of the House Education and Labor Committee will begin hearings shortly on the various elementary and secondary education programs, including impact aid. I have requested to the Chairman that he look into the problem at the Antilles Middle School. This is necessary before going on to the appropriating committee for the necessary funding. I will keep you abreast of any developments.

Thanking you for your interest , and assuring you of my full commitment to the cause of improving the crisis facing the school at Fort Buchanan, I remain,

Cordially,

Baltasar Corrada
Member of Congress

Encl.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

MAR 14 1977

The Honorable Baltasar Corrada
House of Representatives
Washington, D.C. 20515

Dear Mr. Corrada:

Thank you for your letter of February 15 concerning the condition of the Antilles Middle School, located in Fort Buchanan, Puerto Rico.

I appreciate the seriousness of the schoolhousing conditions in Fort Buchanan as you have described them, and have asked Dr. Thomas Burns, Associate Commissioner for State and Local Educational Programs within the Office of Education to meet with you at a mutually convenient time to discuss possible alternative solutions for improving the conditions at the Antilles Middle School.

Dr. Burns has also provided a report on the issue you have raised, which is enclosed. The report provides an analysis of the program authorized by P.L. 81-815 which would provide the funds for improving the Antilles Middle School. It should be noted that funds for this program are extremely limited and that there are many more eligible applicants than dollars available.

If I can be of any further assistance, please contact me.

Sincerely,

Joseph A. Califano, Jr.

Joseph A. Califano, Jr.

Enclosures

ALAN CRANSTON
CALIFORNIA

United States Senate
WASHINGTON, D.C. 20510

June 8, 1977

Ms. Patricia K. Moore
GPO Box 4532
San Juan, PUERTO RICO 00936

Dear Ms. Moore,

In response to the inquiry I made on your behalf, I've received the enclosed comments from the U.S. Office of Education.

I hope this report is helpful and that the information outlined in it will clarify the situation for you. If you have further questions, or if there's any way my office can seek to help you in the future on other federal problems, I hope you will call on me again.

With best wishes,

Sincerely,

Alan Cranston
Alan Cranston

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D. C. 20202

May 12, 1977

Honorable Alan Cranston
United States Senate
Washington, D.C.

Dear Senator Cranston:

Thank you for your letter of April 19 on behalf of Ms. Patricia K. Moore concerning the deplorable school situation at Fort Buchanan, Puerto Rico.

The need for a new middle school facility to replace the frame barracks buildings which have been used for this purpose has been recognized for several years. Such new school facilities would be constructed under the provisions of Section 10 of Public Law 81-815. Appropriations for that program have been inadequate to meet the needs of applicants since 1967. Funding for the purpose of Section 10 averaged about $1 million per year from 1972 through 1975 with the expenditure of that amount confined to make emergency repairs to Section 10 school facilities already in existence.

In 1975, the Office of Education was authorized to conduct an in-depth study, in cooperation with the Department of Defense and with appropriate State and local education agency representatives, to determine school construction needs on government installations where the responsibility of providing school facilities falls under Section 10 of Public Law 81-815. That study has been under way since then, with the final report expected to be completed within the next few weeks.

The portion of the report covering the schools at Fort Buchanan substantiates the conditions described in Ms. Moore's letter. Our survey identifies repair needs, overcrowded conditions, and in some instances, such as at Fort Buchanan, safety hazards that exist in buildings now being used for school purposes.

Adequate and safe school facilities are a concern of the Administration and the Congress. We anticipate that the in-depth study report will receive prompt attention. It will identify extensive needs which should provide a basis for increased budgetary support for the improved maintenance of existing facilities and the construction of new school structures where the need is justified.

We realize that the Antilles Consolidated School System may have to resort to other measures as an alternative to the continued use of makeshift wooden facilities provided by the military command at Fort Buchanan. However, until new funding is authorized we are unable to take more positive corrective action.

If the Office of Legislation can be of further assistance, please let us know.

Sincerely yours,

Albert L. Alford
Assistant Commissioner
for Legislation

Antilles
Consolidated
School
System

FORT ALLEN
FORT BUCHANAN
ROOSEVELT ROADS
RAMEY

Administrative Offices, Ft. Buchanan, Puerto Rico, 00934

Carl R. Engebretson, Superintendent
Carroll U. Dexter, Assistant Superintendent, Instruction
Jesse E. Williams, Assistant Superintendent, Services
(809) 783-2424 Ext. 5210, Fort Buchanan

May, 1977

TO : Parents of Children at Antilles Consolidated School System

FROM : The School Nurses

SUBJECT: Control of Communicable Diseases and Insect Infestation

In preparation for the new school year we, of the Nursing Department of Antilles Consolidated School System would like to give you a few tips and precautions that may assure the beginning of a fairly communicable-free school year. By your using a few common precautions we, at school, will be better able to keep under control the spread of the contagions, thus keeping absenteeism in both the student body and faculty to a minimum and as a result, a healthier school community.

The following are a few hints that can be beneficial to both you and your children:

1. Observe your child for any infected sores (mosquito bites, etc.).

2. Watch for sore throats, fevers and any other indications of illness.

3. If a skin or throat infection is suspected, visit your doctor.

4. Keep your children as clean as possible (bathe them and change their clothing daily, etc.).

5. Shampoo their hair frequently and examine as often for head lice. This is a continuing problem at our school, especially with the younger children. This year the school nurses have performed routine examinations at certain intervals throughout the school year and have discovered a few infestations each time. This indicates to us that you cannot relax in your observations and examinations, nor can we. These little insects can be easily seen, usually quite close to the scalp. Their eggs (nits) can also be easily seen and are attached to the shafts of individual hairs. The nits are bothersome to remove and sometimes need to be literally scraped off between your finger nails. If you discover that any of your children have lice, please do not send them to school until the condition is treated and controlled.

HEALTH DEPARTMENT RECOMMENDATIONS FOR TREATMENT OF HEAD AND BODY LICE:

1. Treatment:

   a. Several shampoos to kill lice are on the market. Some can be bought over-the-counter at your drug store, but others require a prescription.

   b. All persons in the hourse hold should be thoroughly examined and if lice are present should be treated.

2. Procedure:

   a. Remove all clothing.

   b. Use shampoo as directed on the label.

   c. Put on clean clothes after bathing.

3. Wash clothing and household linens, using very hot water, used by persons with head lice.

4. Dry clean all clothing that cannot be laundered.

5. Treatment takes only about an hour. Your child will be readmitted to school after treatment is judged to have been effective by school officials.

6. All initially infested persons should be retreated in 8 to 10 days. As long as there are nits present, the treatment must continue.

7. To prevent spread, persons with head lice should not share articles that come in contact with the head, neck or shoulders (combs, brushes, hats, coats, towels, etc.).

We would like to take this opportuniy to suggest that you check your children's immunization records early in the summer months and get the required immunization so there will be no question about admission for the new school year.

Antilles Consolidated School System

FORT ALLEN
FORT BUCHANAN
ROOSEVELT ROADS
RAMEY

Administrative Offices, Ft. Buchanan, Puerto Rico, 00934

Carl R. Engebretson, Superintendent
Carroll U. Dexter, Assistant Superintendent, Instruction
Jesse E. Williams, Assistant Superintendent, Services
(809) 783-2424 Ext. 5210, Fort Buchanan

May 31, 1977

TO: PARENTS

FROM: CARL R. ENGEBRETSON, SUPERINTENDENT, ACSS

SUBJ: NURSING SERVICES

Concern has been expressed by a number of parents regarding the reduction of our nursing staff personnel at Fort Buchanan.

This reduction was the direct result of some tough and realistic budgeting sessions involving all levels of management at the Antilles Consolidated School System. Our budget is submitted on a per pupil cost based on the average daily attendance. Our per pupil cost has risen steadily over the past seven years, from $975.00 in school year 1969-1970, to $2,061.00 in school year 1976-1977. We had to make a concerted effort to stabilize to some degree our rising costs without effecting the quality of education within the ACSS. The national average per pupil cost is $1,394.54 compared to the ACSS per pupil cost of $2,061.00 for the 1976-1977 school year.

Regarding staffing, there is a big difference when you are justifying personnel between what is "necessary" to carry out the function and what you would "like to have" or what is "nice to have". Those management personnel on the Antilles Staff who were tasked with justifying this years budget, including myself, had to take a hard look and decide what was in fact "necessary" to carry out the specific task. We owe the taxpayer, (all of us included) no less.

Staffing ratios indicate that one nurse can adequately administer to 1,200 students. The Ft. Buchanan schools will be divided essentially into two units next year with fewer than 900 students per unit. We will have two full time nurses to attend to the needs of these students.

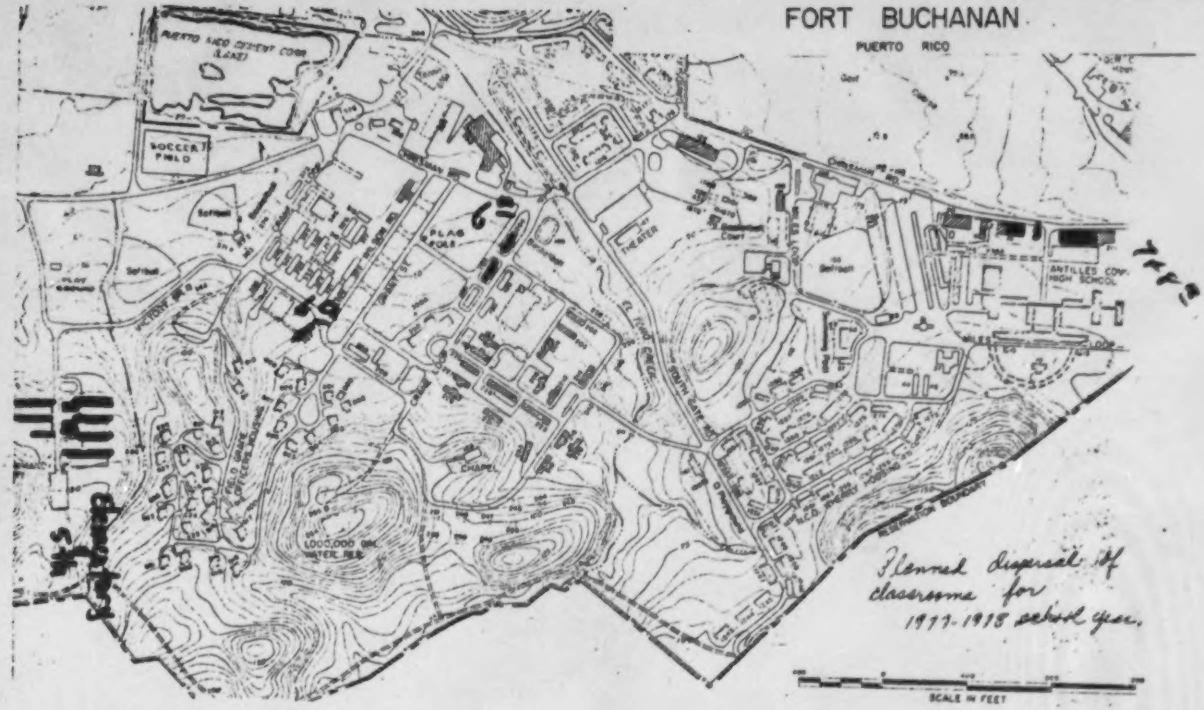
The Fort Buchanan Post Dispensary has always been accessible for emergency treatment and I have been assured by Dr. Lozada and the Post Commander, Colonel Peters, that this service will continue to be available on an emergency basis.

Parents have always been personally responsible for providing their children extended medical treatment or in consulting a medical doctor on the school nurses recommendation. In this regard while conferring with Dr. Lozada about available services it was brought to our attention that parents are often remiss about updating their residence records; or in designating an alternate person to contact in case of emergency. School authorities, nurses and doctors while willing to provide emergency service are penalized spending hours searching for parents because parents have neglected what is their own personal responsibility. As parents you can insure that your child receives prompt emergency treatment by keeping your residence records up to date and designating an alternate contact.

Carl R. Engebretson

Carl R. Engebretson
Superintendent

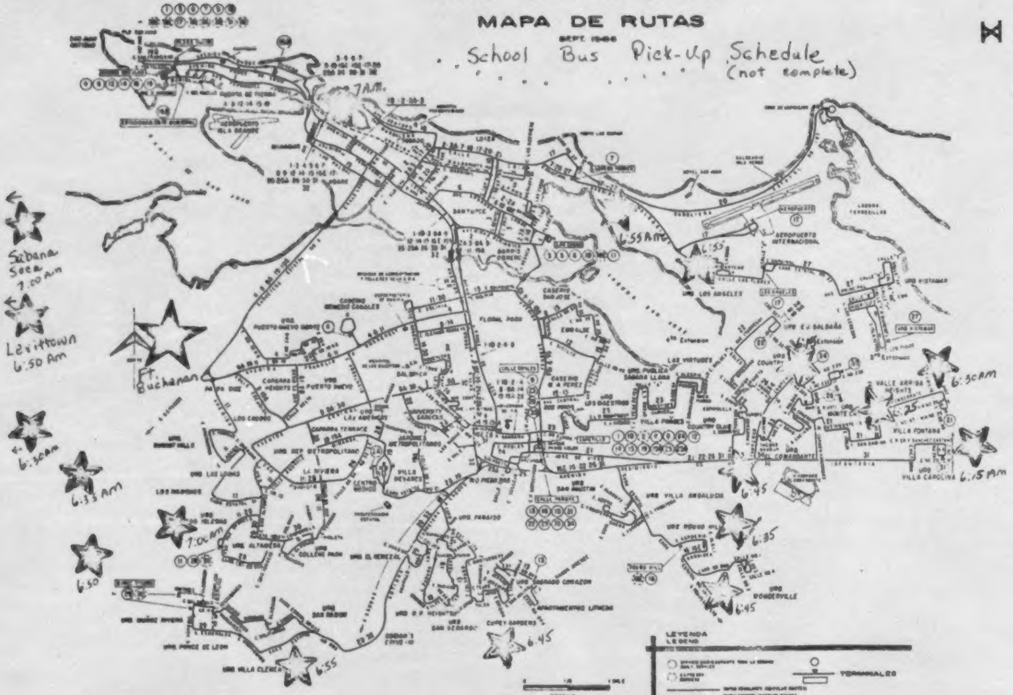
CRE/mm



FORT BUCHANAN
PUERTO RICO

Planned dispersal of classrooms for 1977-1978 school year.

IX



AUTORIDAD METROPOLITANA DE AUTOBUSES

MAPA DE RUTAS

SEPT 1966

School Bus Pick-Up Schedule
(not complete)

Mr. Corrada. Thank you, Mrs. Moore. I commend you for your testimony. You have given a good picture of the difficulties you have had to face in order to educate your children.

We want to hear the testimony of all the members of the panel and then go to the questions. However, the gentleman from South Dakota, Mr. Pressler, has to leave, and has asked me to yield to him for some questions.

Mr. Pressler. Mr. Chairman, I believe I will leave my questions with you since some of them are addressed to witnesses who haven't testified yet.

Let me say to the witness I am astounded to hear of the conditions. I wasn't aware of that. We have had complaints about public schools on Guam. This almost sounds, from the descriptions you have given, as though this is something our committee should act upon very quickly.

I know it is difficult for you to get up here and testify, but you have at least made one member of the committee well aware of this. I am astounded to hear of these conditions.

Mr. Chairman, I will leave my questions with you because they are really directed to some of the other witnesses.

Mr. Corrada. Without objection, that will be done, and I will be more than happy to comply.

Mr. Corrada. We will next hear from Mr. Linn Wallace.

STATEMENT OF LINN WALLACE

Mr. Wallace. I speak for the military installations, not just Fort Buchanan and I request that my testimony be submitted for the record.

[The prepared statement of Mr. Wallace follows:]

STATEMENT OF

BENJAMIN FRANCO (PRESIDENT)

AND

LINN WALLACE (PAST PRESIDENT)

OF THE

ANTILLES CONSOLIDATED EDUCATION ASSOCIATION

ON

IMPACT AID -- SECTION 6, P.L. 81-874 SCHOOLS

NOTE

The earliest notice the present witnesses had on the scope of these hearings was just this week (3 days ago) and therefore we find ourselves in a decided disadvantage in supplying pertinent testimony on the particular elements of a totally changed law.

We would very much like to address ourselves to outstanding issues such as definition of rights of employees under a revised P.L. 81-874 in careful detail.

We beg the indulgence of this committee and request that we be afforded the opportunity to submit our studied recommendations for the record at a slightly later date.

As such what follows represent some of our more immediate concerns.

The Antilles Consolidated Education Association is the exclusive representative of the professional staff of the Antilles Consolidated School System--the only section 6, P.L. 81-874 school system located outside the continental United States. Our organization is affiliated with the National Education Association and the Overseas Education Association. We welcome this opportunity to share with you some of our concerns on providing the best education possible for boys and girls of Federal employees stationed throughout Puerto Rico.

Our school system is unique as the model for our system was designated as the Washington, D. C. school system while the other section 6 schools are patterned after their nearest local school district. Our school system is definitely in an English not as a primary language situation hence our continuing singular treatment as the other section 6 schools throughout the U.S. and territories have been assimilated into local settings.

For many years this arrangement did not provoke problems. Washington, D.C. has had rising per pupil costs and a complimentary budget ceiling has adequately funded our program needs throughout the years. But unfortunately our school system has experienced a particular problem. We lack construction funds for the longest pending construction project in the history of P.L. 81-815.

Our housing shortage has been apparent for 20 long years. Back in 1956 this school system had "borrowed" Navy buildings at then San Juan Naval Station which was at that time at full strength and operation. The schools were then administered entirely by the U.S. Army. The Navy closed down this borrowed school (K-6) in San Juan and shipped its pupils to Ft. Buchanan in 1965. The sudden squeeze left no alternative but to make up a new middle school housed in temporary buildings on Army property. This "new" school was to grow to house upwards 1,200 students at the height of the Viet-Nam conflict. While the conflict escalated and swelled our population, our schools came under Navy control as the Army downgraded its mission in Ft. Buchanan and the fort was taken over by the Navy. Recently we have had changes effecting three of the four locations of the schools. Ft. Buchanan has come back under the control of Army, Ramey School from Air Force to Navy to Coast Guard, and Ft. Allen is being phased out.

Through all these long detailed changes the schools have been lacking construction funds to house the students that have received education through the worst of conditions. A new Jr.-Sr. High School at Fort Buchanan would have solved the problem in part but a Presidential freeze imposed in 1971 has this longest unfunded project of a section 10, P. L. 81-815 pending.

The interim years has seen all manner of accomodations take place: namely students have been inadequately housed throughout the system and at times under conditions described by a knowledgeable Department of Defense Dependent School official "as the most deplorable he has ever seen."*

The "deplorable" conditions have been brought about by a chain of circumstances. When there was a big squeeze for space back in 1964, 56,000 sq. ft. of inadequate housing materialized out of the thin air and was gotten on the promise that it would be temporary housing pending the building of the new Jr.-Sr. High in 2 or 3 short years. Time has shown that collection of rotting unsafe wooden buildings ridden by termites, bats, roaches, rats, and other unsanitary conditions was in fact Antilles Middle School for the last 12 long years. Now, we add insult on injury. The Antilles Middle School has been dismantled and has been shipped into yet less safe buildings while the Army destroys the wooden buildings that were generously (or foolishly) lent Health, Education and Welfare and the U.S. Navy for educating children.

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*Memorandum for the Record, HEW, USOE, From: Actg Chief, School Construction Branch, DSAFA, undated

The Middle School population has leveled out at 675 students for the last few years. No changes at this level is anticipated. Now instead of making a change for the better we have made a change for the worst. The school is to be scattered in three different locations. The "new" buildings are more of the same, and services thought to be traditional in schools such as a complete Media-Library Center, vocational training, and the same level of continuing health services have been eliminated as these word are being read. Moreover, where the students enjoyed at least a modicom of anemities such as physical space (large classrooms, extensive sports facilities, a cafeterium, etc.) now they are reduced to classrooms measuring 400 square feet or fully 50% below the minimum standards of the Life Safety Code and in circumstances violating many other health and safety rules such as egress from a building overloaded beyond any legal capacity to house 300 students.

Construction and refurbishing is going on right now. Our school system is not authorized to build new buildings because lack of funds (P.L. 81-815) but nonetheless it insists on spending funds from programs (P.L. 81-874) to refurbish non-HEW property for sake of expediency and not resorting to the only logical but impossible conclusion--double session of the students in the affected schools.*

Here is is important to point out that the mixture of funds is a practice recognized illegal by HEW officials (Mr. Stormer among them) but HEW has elected to condone the current situation as it strangely gives our school system autonomy to best work itself out of a problem not of its choosing.

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*Impossible because our 40 buses are now starting at 6:00 A.M. and come in late.

These kinds of arrangements have been going on for 20 years and and the equally faulty persons in not funding construction have been seemingly the persons that complain about this arrangement and suffer the terrible consequences (the parents, the teachers, and let us not forget--the students).

We the teachers cannot condone the latest "accomodation". We cannot sit idly by watching children, programs, and teachers suffer impossible learning and working conditions without expressing our concern and our outrage that federal education of federal dependents can hit such a low level.

It is through this means we urge Congress act immediately and issue the proper corrective measures to ameliorate our present situation and our immediate prospects of ruin. Up to now our calls have fallen on deaf ears, will Congress help us?

TESTIMONY TO THE SUBCOMMITTEE ON ELEMENTARY AND SECONDARY EDUCATION

JUNE 23, 1977

FROM: ANTILLES CONSOLIDATED EDUCATION ASSOCIATION AS REPRESENTED BY LINN A. WALLACE

I represent the Antilles Consolidated Education Association, exclusive representative for all teachers and other professional employees of the Antilles Consolidated School System (ACSS) in Puerto Rico. The school system was established by the Commissioner of Education under Section 6 of Public Law 874 of the 81st Congress; it encompasses 7 schools at 4 locations in Puerto Rico; and employs 208 classroom teachers, serving 3,300 dependent children of employees from over fifty federal agencies. ACSS is the only publicly-supported English-language school system in Puerto Rico. As such, the system is unique among Section 6 schools and provides an irreplacable service for the large number of native speakers of English assigned to live and work in Puerto Rico by the federal government.

During the course of the last school year, our school system has experienced one severe alteration in the chain of command, the insertion of the Commander of U. S. Naval Forces, Caribbean, into the power structure between the superintendent and a civilian educator in the Office of the Chief of Naval Education and Training in Pensacola, Florida. This commander has been designated "the school board." This change converts the education of 3,300 school children to a minor collateral duty for an extremely busy man whose chance to familiarize himself with the educational scene is perfunctory at best. How much more desirable it would be to have a person of lesser stature but with sole responsibility of operating schools. We believe that such a man need not be created for he does in fact already exist. Prior to the revision of CNETINST 1755.3, he performed such duties. He and his staff are charged with the operation of DODDS schools in the Atlantic area.

Under the aegis of the U. S. Office of Education, which has initiated numerous innovative programs throughout the nation, the Antilles System should be a model for others to follow. Instead, we find ourselves in educational shambles. One school, the Antilles Middle School, has been evicted from its deteriorating plant by the Army, and the children are being farmed out to run-down Army buildings which pose even more serious health and safety hazards; the move will result in the elimination of the school media center, the industrial arts program, reduction in nursing services, and other basic services. Despite the fact that our enrollment remains stable, teaching positions and educational services are being eliminated arbitrarily throughout the system. The school system's curriculum has been removed from educators and turned into an instrument for special interests. As a result, ACSS has no system-wide programs for specific learning disabilities, career education, or bilingual education.

The root cause for the serious problems itemized above is that Section 6 of PL 874, as currently written, invites abuse by

(A) allowing the operating agency (U.S. Navy) effective control over funds for which it is not accountable to Congress,

(B) allowing for the appointment by the operating agency of a one-man Board of Education with all the powers of elected multi-person Board in local districts throughout the U. S.

(C) not specifying personnel policies and practices, including especially the determination of salary, in sufficient detail. The current law issues a virtual "blank check" to the operating agency in regard to such vital matters as leave, performance ratings, reduction in force procedures, adverse action, and salary. These omissions promote continuing fears for job security among employees and serious labor-management relations crises.

In view of the above, ACEA recommends revision in the current law as follows:

(A) The law should require that the agency to whom Congress appropriates funds for the establishment of schools will be the agency which operates these schools.

(B) The ACEA endorses the concept of a federally-supervised election of a multi-member Board of Education by an electorate composed of all parents of children attending the schools. This Board will be empowered to oversee school expenditures and operations, but its decision will be subject to regular audit by the funding agency, and the requirements of law.

(C) In instances where the funding agency determines that an elected school board is not feasible, educational program will be the responsibility of professional educators up to the level of the funding agency.

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(D) The law must spell out personnel policies and practices in greater detail, especially in regard to salary and leave. ACEA strongly urges language providing for clear and unequivocal alignment with the District of Columbia public schools, something that is only implied ambiguously in the current Section 6 language. In particular, we recommend that salaries at ACSS in Puerto Rico be made identical to the salaries of their counterparts in Washington, D. C.

Respectfully submitted,

By the direction of the Antilles Consolidated Education Association,

Linn A. Wallace

NOTE BOOK

A PUBLICATION
OF THE ACEA

February '77

The purpose of this issue of Notebook is to present a comparison of the laws governing ACSS and DODDS. This report was researched and written by Bob Savage (RRHS).

Since Puerto Rico is "overseas" and ACSS schools are located on military bases, many people assume our school system functions under the same laws and regulations as those governing the Department of Defense Dependents Schools (DODDS). In fact, the two systems are governed by separate laws, with the result that personnel policies and practices are sharply divergent. This paper will examine ways in which the two systems differ in the areas of leave, performance rating, reduction in force, adverse actions, salary, and military influence.

It is true that both DODDS and ACSS educators are classified as "Excepted Service" employees of the Federal Government. However, the extent to which an excepted employee is covered by or excluded from Federal personnel regulations apparently depends on the law or laws establishing the employee's position in the federal service. DODDS is governed by Public Law 86-91, the Defense Department Overseas Teachers Pay and Personnel Practices Act. Department of Defense Directive number 1400.13 implements P.L. 86-91. It specifically excludes Puerto Rico and other overseas territories under U.S. flag from DODDS jurisdiction. ACSS, therefore, had to be established under section six of Public Law 874 (81st Congress). This law provides federal support to local school districts heavily impacted with dependents of federal government employees. Section Six grants the Commissioner of Education (who heads the Office of Education in H.E.W.) power to establish federal schools in areas where the localdistrict lacks the capacity to provide education to federal dependents. In terms of personnel policies and practices, the most important difference between the two laws is that DODDS law unequivocally spells out the conditions of employment for educators, whereas the Section Six law excludes employees from coverage under most existing federal regulations without providing any clear-cut substitute measures.

Because of the special nature of the school year, both DODDS and Section Six educaters have been excluded from federal regulations regarding leave. P.L. 86091, however, provides substitute leave regulations for DODDS employees, something that Section Six does not do for ACSS employees. The DODDS regulations grant each employee ten days "educator's leave" with pay per school year cumulative to a maximum of 75 days. (2:14) This leave is not confined to absence because of illness, but may also be used "(1)n the event of any emergency." With the prior approval of the supervisor, up to three days may be used "for any purpose." (2:15) DODDS educators also receive credit for sick leave accumulated while working elsewhere in the federal service so long as their appointment to DODDS occurs without a break in service. Additionally, they receive a lump-sum payment for accrued annual leave earned while employed by the Federal Government under a different leave system.

In contrast, professional employees of ACSS apparently had no legal right to any leave until the advent of the Negotiated Agreement with the Antilles Consolidated Education Association in April of 1976. Under the terms of the current Agreement, school-year employees receive ten days sick leave per year which may be accumulated without limit. Emergency leave, however, is limited to fifteen days, confined to specific purposes, and subject to approval by the superintendent. The superintendent may also approve two days leave with pay per year "for the accomplishment of personal and/or business requirements that cannot be handled outside duty hours." (3:13-15)

DODDS educators are covered under Federal Personnel Manual regulations on performance ratings, but Section Six employees are specifically excluded from such regulations. This means that DODDS supervisors use a standard government rating form with three catagories: outstanding, satisfactory, and unsatisfactory. It also means that a DODDS educator must be given ninety days notice in the event of a proposed unsatisfactory rating. (4) The only legal requirements regarding performance ratings for ACSS employees are those contained in the current Negotiated Agreement. The Agreement requires forty-five days advance notice and a guarantee of at least three supervisory observations before the issuance of an unsatisfactory rating. It does not address all the criteria to be used in the evaluation, however, or the number of rating categories. Thus, unimpeded by federal regulations, ACSS management has developed a new rating form containing five categories (Outstanding, Superior, Satisfactory, Needs Improvement, Unsatisfactory) and including numerous criteria not mentioned by the Agreement. As exclusive representative of the professional employees, the Teacher's Association claims that management has promulgated the new form without meeting and conferring with the Association as required by Executive Order 11491. It seems clear that lack of federal regulations fosters labor relations crises in Section Six schools that would not occur in DODDS.

For employees in the excepted service, reduction in force (RIF) and adverse action procedures are heavily influenced by the Veterans Preference Act. This law grants the right of appeal to the Civil Service Commission to veterans with "preference eligible" status in the excepted service. No other excepted service employees have appeal rights. DODDS veterans are covered by the Veterans Preference Act and thus have appeal rights; Section Six educators are speciffically excluded from the benefits of the Act. ACSS employees have no appeal rights to the Commission.

Public Law 86-91, as implemented by DOD Directive 1400.13, spells out salaries for DODDS educators in no uncertain terms:

> Rates of basic compensation for educators and educator positions shall be fixed at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population. (2: 3)

Section Six of P.L. 874 is not so specific regarding salary. The law requires that Section Six schools outside the continental United States provide education comparable to that provided in the public schools of the District of Columbia. It specifically states that federal laws on salary (and other matters) are excluded in order to provide such comparable education. It is reasonable to conclude, therefore, that the intent of the law is to substitute District of Columbia salary regulations in setting conditions of employment for Section Six educators. Most teachers argue that this is the proper interpretation of the law. Indeed, past practice on salaries and management directives on the matter bear out such an interpretation. Some management officials, however, argue that salary comparability to D.C. is not required by law; according to these officials, salaries for ACSS educators are set "administratively." There is little doubt that any effort by management to eliminate D.C. comparability would result in court action by the Teachers' Association similar to the successful suit brought by OEA against DODDS. Again, the deficiencies in the Section Six law produce uncertainty and conflict at ACSS.

The attached chart demonstrates how the organization of DODDS reduces military influence in the management of the schools, while the organization of ACSS under Section Six procedures serves to increase such influence. DODDS is run entirely by civilians; its central office in Washington, D.C. is physically separate from the Pentagon. In contrast, H.E.W. contracts out the operation of ACSS to the Naval authorities in the Atlantic. The ACSS "Board of Education" is the Commander of the Tenth Naval District, whereas the chief authority over Atlantic DODDS schools is the Regional Director, Dr. Thomas Drysdale. Dr. Drysdale has much more authority in his position with DODDS than he does working for CNET (Chief of Naval Education and Training) as one of several ACSS coordinators. While he can deal directly and unilaterally with DODDS schools, Dr. Drysdale must share power with the Admiral and H.E.W. in working with ACSS. The position of the ACSS superintendent is even more difficult. He must serve three masters: Drysdale, Robert Watkins of H.E.W. and the "Board of Education," Admiral Flanagan.

Upon first consideration, the ambiguities, exclusions and lack of specific provisions in the Section Six law might be encouraging to management. Administrators might view the appalling lack of guidelines as a golden opportunity for freedom and flexibility in the management of ACSS. It should be remembered, however, that freedom cuts both ways. Executive Order 11491 limits negotiations between management and employees to matters not covered by existing laws or regulations. Because DODDS is covered by many laws and regulations, the Overseas Education Association has been severely limited in what it can negotiate with DODDS management. The very emptiness of the Section Six law means that negotiations between ACEA and ACSS management are going to be much more extensive than those between OEA and DODDS. Every arbitrary and unilateral action by management will be noted by teachers and brought to the table at the next negotiations. Thus, employment at ACSS under Section Six is bound to be more difficult and challenging, but perhaps more interesting and profitable in the long run.

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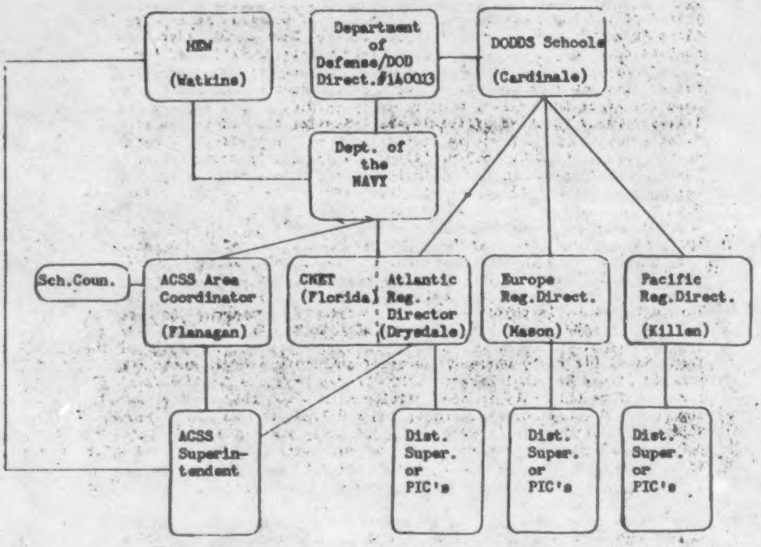
ORGANIZATION CHART FOR ACSS AND DODDS



Four locations
in Puerto Rico.
180 plus teachers.

Total of 3,600 teachers in 261 schools. OEA is exclusive representative for all schools except 35 schools in Europe under OFT.

Mr. **Wallace**. The first 4 pages of our testimony address the building problem at Antilles Middle School, Fort Buchanan. The report of Mrs. Moore covers the Middle School problem thoroughly and I only wish to add our endorsement.

I intend to dwell on the second portion of the teachers' association testimony which is appended after page 4. I had some new and continuing problems in our school system which are caused or allowed to exist by what we view as inadequacies in Public Law 874.

The first problem is the nature of our school board who is the Commander, U.S. Naval Forces Caribbean. As we have a one-man Board of Education, there is no vote to counteract any ill-conceived decision on the part of the Commander. Inasmuch as the Commander is in a rotatable position and subject to regular transfer, the school program is drastically affected by the U.S. Navy's decision as to who should command U.S. Naval Forces Caribbean.

This means the continuity of the school curriculum is interrupted at each assignment of a new Commander.

The power to make unilateral program decisions has resulted in educationally-unsound addition and deletions to the curriculum. The power to change long-standing curricula patterns has caused unexpected and to date unjustified shifts of teaching staff with years of experience with the school system including unnecessary reassignments and reductions in force.

Secondly, the school's council appointed to advise the commander is demonstrably not representative of the student population. In violation of the instruction written to establish the structure of the council, Chief of Naval Education Instruction, 1755.3, the School Council members' non-elected appointees often come to the council with severe misconceptions about the nature of our student population and the purpose for which our schools are established and funded.

The knowledge that the school is subject to the decisions of one man for the duration of his tour is responsible in my opinion for a severe undermining of the integrity of the professional administrative staff of the schools; a sort of tour-of-duty mentality evolves. At least two principals have suggested to me in conversation that the solution to unsound policies issued by the School Board is to lie low until he is transferred; maybe the next commander will be different. Thus our students and curriculum fall victim to unsound policies and practices.

The school system is also subject to the whim of the Office of the Chief of Naval Education and Training which can shift educational responsibilities from educator to military appointee at will as it did in November of 1976 with the reissuance of 1755-3.

Other major problems exist because of omissions and specific exemptions in Public Law 874 regarding personnel policies and benefits applying to teachers in Section 6 schools outside the continental United States. I refer to the absence of specific language regarding salary, rent procedures, adverse action, and other important personnel matters. These omissions result in unnecessary waste of government monies and drain the energies of teacher association representatives and administrators in non-teaching, non-educational undertakings. To write a negotiated agreement to cover a unit of only 100 teachers, we negotiated with management for ten months, 36 long days, required the services of the Federal Mediation and Conciliation Service twice, called for assistance from the Federal panel and both parties found it necessary to import negotiators from the States.

This is too exhausting and wasteful a chore to write an agreement covering 200 teachers.

The root cost for the serious problems itemized above is that Section 6 of Public Law 874 is certainly written-in abuse by allowing the operating agency—in our case the U.S. Navy—effective control over funds for which it is not directly accountable to Congress. Allowing for the appointment by the operating agency of a one-man board of education with all the powers of elected multi-person boards in local districts throughout the U.S., the law does not specify personnel policies and practices, giving a blank check to the operating agency. In view of the above, the Teachers Association recommends revision in the current law as follows:

In the interests of continuity of program at some future time we believe all schools which are operated by the Federal government for the education of Federally-dependent employees' children should be uniformly administered by one agency under one law. The law should request the agency to whom congress appropriates funds for the establishment of schools to be the agency which operates these schools. We would recommend the U.S. Office of Education.

The ACEA endorses the concept of a Federally-supervised election of a multi-member Board of Education by an electorate composed of all parents of chidren attending our schools. This board would be empowered to oversee school expenditures and operations and school programs, but its decisions would be subject to regular audit by the funding agency and the requirements of law.

In the instances where the funding agency determines that an elected school board is not feasible, educational programs must be the responsibility of professional educators up to the level of the funding agency and down to the level of the classroom instruction. If the law cannot get the decision-making powers to the most legitimate form, the parents, it should keep decision-making in the hands of educators.

The law should spell out personnel policies and practices in greater detail. We urge language that unequivocally aligns our salaries with the District of Columbia public schools, where we are required to give an education comparable to the District of Columbia, and there is really no need for exhaustive negotiations when the law could do the whole job in a word.

The ambiguous nature of the laws that exist has resulted in a filing of three requests for arbitration in one year in our school system. We endorse the attachment to Washington, D. C., because we are familiar with what has happened in the DOD schools in which they have a magnificently complicated formula for handling teachers' salaries and I think they just lost a $43 million suit that they can't figure out how to repay because their salaries depend on an average of all city pay scales in the United States that have a population over 100,000. Washington, D. C. as a guideline is adequate and has served us well.

In closing, it has not been my intention to be unduly critical of Admiral Flanagan, the current commander of the U.S. Naval Forces Caribbean and who is our School Board, or the School's Council. The Admiral did not write the legislation which ultimately allowed one man to be designated as School Board and I have no reason to believe that he takes any pleasure in operating such a mission. The problems of the School's Council may be avoidable, given the rules under which it is appointed, and it is those rules which should be changed.

Thank you.

Mr. CORRADA. Thank you, Mr. Wallace.

We have on the panel Dr. David Smith, Assistant for Graduate Education/Dependents Education and Youth Programs, Office of the Director of Naval Education and Training, Department of the Navy. Dr. Smith's statement will be made a part of the record.

[The prepared statement of Dr. Smith follows:]

STATEMENT OF

DR DAVID L. SMITH

ASSISTANT FOR GRADUATE EDUCATION/

DEPENDENTS EDUCATION, AND YOUTH PROGRAMS

BEFORE THE

HOUSE COMMITTEE ON EDUCATION AND LABOR

SUBCOMMITTEE ON ELEMENTARY, SECONDARY

AND VOCATIONAL EDUCATION

ON

THE DECISION MAKING AND BUDGETING PROCESSES CONCERNING THE

ANTILLES CONSOLIDATED SCHOOL SYSTEM, PUERTO RICO

ON

23 JUNE 1977

DR. DAVID LEE SMITH

ASSISTANT FOR GRADUATE EDUCATION, DEPENDENTS EDUCATION AND YOUTH PROGRAMS

Dr. Smith graduated from Eastern New Mexico University in 1966 with an A.B. and M.A. in Psychology. He then served two years on active duty with the U.S. Marine Corps.

In 1968 Dr. Smith was appointed as the School Psychologist for the Quantico Dependents School System (QDSS), a Section 6 school located at Marine Corps Development and Education Center (MCDEC), Quantico, Virginia. During 1971 Dr. Smith was named Coordinator and Pupil Personnel Services at the QDSS. In February 1976, Dr. Smith received the Ed.D. degree from the George Washington University. Dr. Smith assumed his current position in March 1976.

A native of New Mexico, he is married to the former Karen Rosseisin of Milwaukee, Wisconsin. They reside in Lake Ridge, Virginia and have two children: Stephen Scott and Laura Elizabeth.

In conformity with the provisions of the U.S. Office of Education (USOE) School Assistance in Federally Affected Areas (SAFA) Bulletin No. 12 of January 1, 1964 (Rev.), it is the policy of the U.S. Commissioner of Education that children residing on Federal property be educated, wherever possible, in schools operated and controlled by local public school systems in accordance with state and territory laws and standards. It has been determined that no local educational agency in Puerto Rico is able to provide free suitable public education using English as the language of instruction for children residing on Federal property and other children who are eligible to attend school under Section 6 of Public Law 81-874 as amended. The only legal authority for expending Federal funds for the operation and maintenance of elementary and secondary schools on Federal property in Puerto Rico is contained in Public Law 81-874, which is administered by the U.S. Commissioner of Education.

In order to provide elementary and secondary education for eligible children in Puerto Rico, the Secretary of the Navy and the U.S. Commissioner of Education, Department of Health, Education and Welfare agreed that the Navy will operate the Antilles Consolidated School System (ACSS) in

Puerto Rico in accordance with the provisions of Section 6 of Public Law 86-874. This agreement can be canceled only by mutual consent of the Secretary and the Commissioner. Public Law 81-874 requires that, to the maximum extent practicable, these schools must provide a level of education comparable to that provided children attending the public schools in the District of Columbia.

As the Department of the Navy is the Federal agency responsible for operating the ACSS, the Commander, U.S. Naval Base, Roosevelt Roads, Puerto Rico, the Area Coordinator, has been designated as the official responsible at the local level for the operation of the school system. The USOF provides operation and maintenance funds and financial policy guidance and determines eligiblity standards for attendance.

In its capacity the USOE:

1. Provides financial policy guidance and procedures in accordance with Public Law 81-874.

2. Provides the assistance of a Regional SAFA Program Officer who insures that Section 6 schools are operated in accordance with USOE policy.

3. Reviews the annual ACSS Letter of Proposal (LOP) and gives final approval in accordance with paragraph VII of USOE SAFA Bulletin 12 (the LOP is the annual budget

submission of a Section 6 school.)

4. Reimburses the Navy on a quarterly basis for the cost of operations and maintenance of the ACSS in accordance with an annual funding document, which establishes (1) the total dollar amount of the operations and maintenance budget, (2) estimated average daily attendance (ADA), and (3) per pupil cost.

The Regional SAFA Program Officer determines eligibility for attendance by approving or disapproving on an annual basis, all applications for admission; and by providing the Superintendent of the ACSS with guidance concerning USOE eligibility criteria. Also the Regional SAFA Program Officer analyzes the annual LOP and recommends its approval or disapproval to the USOE. In addition, advice is provided to the Superintendent on matters relative to USOE policies and procedures of operation.

The Chief of Naval Education and Training (CNET) provides general supervision over the educational program, including the development and revision of philosophy, goals, and priorities. In addition CNET:

1. Monitors support provided by the Area Coordinator as it affects the educational program.

2. Reviews the annual LOP and supplementals thereto and establishes, with USOE approval, the official fiscal year operating budget for the ACSS.

3. Annually establishes basic salary schedules for all school personnel.

4. Issues instructions, guidance, and directions, as required, for the operation of the ACSS.

5. Serves as a point of contact within the Department of the Navy on matters concerning logistical support of the Section 6 educational program.

6. Serves as a point of contact for liaison and/or coordination with the USOE.

7. Reviews the fiscal adequancy of the school operation.

The Area Coordinator, as the official responsible at the local level for the operation of the ACSS, has the following responsibilities:

1. To select and appoint, with the concurrence of CNET, a school superintendent who meets the minimum academic qualifications prescribed by the North Central Association of Colleges and Schools.

2. To insure that the school system is operated in compliance with the policies established by USOE and CNET.

3. To insure, insofar as practicable, that the high schools are operated in such a manner as to maintain full accreditation by the North Central Association of Colleges and Schools.

4. To provide the Superintendent, on a non-reimbursable basis and from available Navy resources, the following services, as required: accounting, disbursing, contracting, procurement, and personnel services.

5. To prepare on an annual basis, but not later than 15 July, and forward to CNET a comprehensive rating evaluation on the professional performance of the Superintendent.

6. To establish an ACSS council composed of a representative group of school patrons to advise and make recommendations concerning those agenda items approved for school council consideration. (Members of this group will work only in an advisory capacity and will have no legally constituted authority to act alone or independently. Recommendations, proposals, etc., emanating from this group will not become policy or a regulation of the school system unless and until approved in writing by the Area Coordinator. Membership of the group should be comprised of individuals from base activities, including representatives selected from other military departments and Federal agencies served by the ACSS. The Schools Officer should be included as a coordinating member of the group.) The School Superintendent will be an ex officio member of this council and will be present at all meetings except when his position is being discussed.

7. To assign as collateral duty to a member of his staff the function of Dependents Schools Officer who will advise the School Superintendent of procedural matters and assist in establishing effective liaison and coordination of base activities and their departments in logistic support of the school operation. (Parents with problems concerning academic procedures of the school system will be referred to the Superintendent and/or the individual principal or teacher as appropriate.)

8. To arrange for the establishment of a property management system in accordance with the provisions of USOE SAFA Bulletin No. 64 of May 16, 1960 (Rev.). This includes buildings and equipment provided under Sections 9 and 10 of Public Law 81-815 as amended and equipment provided under Section 6, Title I, of Public Law 81-874. The annual report and the annual certification required by USOE SAFA Bulletin 64 will be forwarded via CNET to the USOE Regional SAFA Program Officer not later than 30 September of each year.

9. To serve in a capacity similar to that of a Board of Education in a public school system in the United States, in which he shall:

a. Establish policies and procedures on the local operating level.

b. Establish policy and procedures consistent with applicable law and Federal, DOD, and Navy regulations for the retention or release of school personnel.

c. Adopt procedures to permit ACSS employees to present their views on matters affecting the educational program before a decision is made.

d. Transmit official business with school employees only through the Superintendent in accordance with established personnel policies and practice.

e. Develop policies which will attract and retain the services of well qualified and competent employees.

f. Recommend approval of the LOP.

g. Specify periodic reports to be submitted by the Superintendent regarding the operation of the school system.

h. Direct the Superintendent to prepare, with the cooperation of the school staff, policies and procedures as a basis for the adminstration of the school system. (These will be in written form and approved by the Area Coordinator and be available to employees and patrons of the school system.)

i. Insure against inappropriate interference in the administration of the school system.

j. Act as the final local arbitrator on all those matters relating to the ACSS which come within his expressed or implied authority as a board of education.

As the chief school officer the ACSS Superintendent will be responsible to the Area Coordinator for:

1. Administering the school system, including fiscal affairs, within the limits established by policies and regulations formulated by the Area Coordinator.

2. Serving as consultant and advisor on elementary/secondary school matters.

3. Keeping the Area Coordinator informed of the status of all important aspects of the schools' operations.

4. Submitting items for discussion relating to the schools' operations.

5. Providing required reports on the operation of the schools.

6. Conducting a sound public relations program.

For schools' operations the Superintendent will be responsible for:

1. Coordinating with CMET regarding the development and revision of the educational program.

2. Administering and supervising the education program.

3. Conducting a continuous study of curriculum development, required size of the school plant, and other needs of the school system to assure a good elementary and secondary school program and accreditation by the North Centeral Association of Colleges and Secondary Schools.

4. Recruiting for school personnel. Screening, rating, selecting, and assigning school employees in accordance with established personnel policy and practices. In staffing the ACSS, every effort will be made to obtain the services of the best qualified personnel available. Equal consideration will be given to Federally-connected dependents wives who are qualified and who apply locally, provided they are available at the time of selection and there is reasonable assurance that their services will be available for the full school year for which employed.

5. Establishing and maintaining current position descriptions for all school employees consistent with applicable law and Federal, DOD and Navy regulations.

6. Maintaining a sound personnel adminstration program consistent with applicable law and Federal, DOD, and Navy regulations.

7. Establishing working relations with the school staffs to insure cooperation and effective adminstration.

8. Managing the operations of school physical plants and equipment.

In financial matters the Superintendent will be responsible for:

1. Preparing and submitting, in coordination with CNET, the annual LOP in accordance with USOE SAFA Bulletin

No. 64. In addition to the USOE prescribed format the Superintendent will, prepare an attachment of supplemental information as may be required by CNET. (The LOP is the annual budget submission for the school system and should reflect funds for all operating costs, except certain non-reimbursable logistical services which will be provided by the Area Coordinator. Since the LOP reflects and controls the educational program, it must be prepared by the Superintendent. Upon request, the Regional SAFA Program Officer and CNET will provide guidance for its preparation. Although Section 6 schools operate on an annual basis, the LOP should reflect long-range educational programs and goals.) After the Area Coordinator is satisfied that such items as the estimated ADA, estimated total cost of the entire operation, planned improvements, etc., are reasonable, four copies of the LOP will be forwarded to CNET and two copies to the Regional SAFA Program Officer before 15 March preceding the following school year for which the LOP applies. (After the LOP has been approved, the USOE will advise CNET by letter as to the approved per pupil cost, ADA, and the total dollar amount. This funding document will in turn be forwarded to the Area Coordinator who will treat it as a reimbursable work order.)

2. Administering the approved budget and being responsible and accountable to the Area Coordinator for the expenditure of all appropriated and non-appropriated funds. (The Superintendent is the only one authorized to approve the expenditure of funds.) Adjustments in the ADA, per pupil cost, or the total amount of the LOP will be made in accordance with USOE SAFA Bulletin No. 64. Upon approval of the Area Coordinator, the Superintendent is authorized to reprogram up to ten percent of the funds in any major expense category in the approved LOP to another major expense category, provided CNET is advised and such transfer of funds does not involve a type of program not included in the LOP. All other reprogramming will require approval of CNET prior to implementation.

3. Requesting construction of new facilities or major renovations of exisiting facilities to be submitted under the provisions of Public Law 81-815 and approved by the U.S. Commissioner of Education. The Commissioner also approves maintenance and repair projects costing in excess of $1,500.

For authorizing school attendance under Section 6 of Public Law 81-874 the Superintendent will be responsible for:

1. Collecting the eligibility data required by the USOE.

2. Conducting a preliminary review of the data collected.

3. Recommending approval or disapproval of each application to the Schools Officer. In unusual cases, the Area Coordinator shall refer the application to the Regional SAFA Program Officer for resolution.

4. Complying with all requirements established by the USOE and/or the Regional SAFA Program Officer to insure payment to the Navy for every pupil admitted under Section 6 of Public Law 81-874.

5. Assuring that dependents of all Federal agencies who are eligible to attend the ACSS have an equal opportunity to attend. (No preference will be given to eligible dependents of personnel employed by any one Federal agency--military or civilian.)

6. Resolving application disputes prior to the opening of school term.

In summary the decision making process (including budgeting) in the Antillies Consolidated School System flows from the system to the Area Coordinator, to the Chief of Naval Education and Training, to the Regional SAFA Program Officer, to the U.S. Office of Education here in Washington, D. C. Thank you for your interest and support of this Section 6 school program.

I believe Dr. Stormer doesn't have a written statement with regard to this problem. Perhaps it would be well to receive comments of both of you gentlemen as to how it is possible that this situation has deteriorated to the point that the previous witnesses have stated if you would care to comment on that.

STATEMENT OF DAVID L. SMITH

Mr. **Smith**. Very briefly, as you know, our funding originates from the United States Office of Education and is channeled through a regional program officer of HEW to the Chief of Naval Education and Training, to the Area Coordinator, which is the Commander of U.S. Naval forces in the Caribbean who in turn appoints a superintendent to be the educational manager of the school system.

The request for the junior-senior high school has been fully endorsed by the Navy and has been on the books since October 1969. We concur the conditions at the school building are not adequate. In fact, the school is being torn down and we agree that that is a necessary action. We would certainly support construction of a new building were money and funding available for it. As an interim measure, we also support the temporary construction of facilities that were recommended by other panel members.

Mr. **Corrada**. Mr. Stormer.

Mr. **Stormer**. We have to concur with Mrs. Moore's statement with respect to the deplorable condition of the temporary facilities that are used at the Fort Buchanan Middle School. I don't think it is necessary to rehash the circumstances and the facts which are fairly well outlined in her testimony. We are, and have been, in a position over the course of the last ten or twelve years of having inadequate funds to take care of the needs of school facilities which lie on military installations, such as those at Fort Buchanan, Roosevelt Roads, as well as those school facilities which exist on and off military installations where the schools are operated by the local educational agencies.

During this period of years, in fact, approximately 1970, there were Public Laws which did restrict the amount of obligation and expenditure of funds for the purpose of school construction under Public Law 815. Subsequent to that, there was a modification in Public Law 815 which added another segment of the law to be equal in priority with those school facilities which were supplied under Section 10, thus depleting the amount of money that could be directed toward facilities funded under Section 10. Subsequent to that, there were modifications in the appropriations language which redirected the amounts of money which were appropriated under P.L. 815 to specify kinds of situations, and as a consequence we ended up at the present with a significant backlog in what we would call eligible unfunded applications.

I might indicate with respect to the Section 10 aspect, there are some 172 separate school buildings located on 77 military and government installations around the country. These are located in 29 different states. There has been underway, through the cooperation of both the military departments and the Office of

Education, a study which we commonly refer to as the "in-depth study". It examines the need for additional school facilities, for remodeling, rehabilitation, and the upgrading of existing facilities on certain installations.

As Mrs. Moore indicated, we anticipated this report would be furnished approximately May 15th. We find there is needed an analysis of the legal responsibility of the Office of Education to perform in certain states. That is being done with respect to these Section 10 facilities. That, will be done in conjunction with the winding up of the analysis of the total need. We anticipate that the report will be furnished to the Congress on or about August 30th. The segment I referred to as the legal responsibility is the aspect which will probably delay the submission of this report until the 30th of August. It is the Commissioner's intent that the report will be done by that date.

I should follow up by saying that this report is really a preliminary step to the elimination of the problem that exists at the Buchanan Middle School. A preliminary step from the standpoint of the fact that it will be the device by which the Administration and the Congress ultimately may determine the appropriation—what magnitude appropriation is needed to overcome this problem—in terms of providing for permanent construction. We all recognize the efforts of the Fort Buchanan parents in securing the inclusion of $360,000 in the current bill that is under consideration. As you indicated, I think day before yesterday, if this bill passes, we would expedite the provision of the relocatable, or temporary facilities that this amount of money earmarked would provide. We are gearing up to accomplish this if it becomes a reality but, of course, at this point in time we don't know whether it is going to be a reality.

Mr. **Corrada**. I have some questions first for Mr. Stormer.

How would you explain that these conditions were allowed to exist for so long when you have stated repeatedly that you were well aware of the problem at Buchanan and also across the nation? If the problem could have been solved by an increase in funding, why did you not make such a request in previous years? If you have, please explain.

Mr. **Stormer**. We have through our vehicle requested funds be made available to support the school construction aspects of Public Law 815. However, during this period of time you will probably recognize, there has been an effort to reduce the amount of Federal construction, praticularly with respect to the Office of Education, and with respect to school construction assistance. Within the limitations which the Administration has imposed, there have been amounts of money requested and on the average we have been appropriated the amounts of money that have been requested, that being an average of about $20 million a year. I cannot give you an explanation as to why this backlog has been created beyond that, over a period of the last ten years.

Mr. **Corrada**. Have you come to Congress requesting an increase in construction funds based on the need of which you were well aware?

Mr. **Stormer**. The administration has not come to Congress requesting more than the $10 to $20, $25 million that has been annually appropriated.

Mr. **Corrada**. What would have to be done in your estimation so that there could be a new high school constructed at Fort Buchanan in the near future?

Mr. **Stormer**. I think you have to recognize that money is the basic problem. Money specifically to fund the backlog of unfunded eligible applications, or unfunded applications that exist under Section 10, and also the consideration which would have to be recognized under the other sections of the law—Section 5 being that which takes care of the military installations where the local agencies operate the facilities and under 14 where the assistance goes to school districts for children residing on Indian lands. All three have situations which are deplorable.

Mr. **Corrada**. What are either the educational or administrative adjustments that would have to be made to assure a more equitable parental representation in the education of the children in light of the fact that there is a one-man board while two-thirds of the students have non-military backgrounds?

Mr. **Stormer**. I would suspect that you would have to amend Section 6 of Public Law 874. I cannot give you specific kinds of amendments that would be necessary. At the present time our approach is to, within this authorization, provide the funds necessary to each of the military departments who in turn fund the letters of proposals, or the budgets, of the 26 installations which are operated under Section 6.

Presenty, and I recall Mr. Wallace's testimony relative to the salary situation in these schools, the legislation at the present time provides that the military departments are the ones who hire and within their own personnel policy provisions, administer the Section 6 school systems and their personnel.

Mr. **Corrada**. Dr. Smith, it is my understanding that a study was commissioned last fall by Admiral Flanigan and performed by Dr. Drysdale and yourself in cooperation with a management survey team.

Could you elaborate on the findings of that study and could this committee have a copy of that report for the record of these hearings?

Mr. **Smith**. Yes, sir, I will be glad to speak to that.

The study was commissioned or initiated by the Office of the Chief of Naval Education and Training in concert with Admiral Flanigan, the Area Coordinator. The study was designed by outside consultants.

The Office of Chief of Naval Education and Training conducted a nationwide search for persons who were competent, and had expertise in evaluating school management. Dr. Oron South was the gentleman who headed up this team.

I don't have that information with me, sir, but we can make that report available as you have requested.

The team did go to the school system last fall as you indicated and conducted a management survey. A summary report generally showed that there were some problems which offhand I can't bring to mind.

One of the problems for instance, was the coordination of procurement of materials and supplies.

Among the four units in the Antilles Consolidated School System which are spread throughout Puerto Rico. Other survey recommendations were also provided to the Area Coordinator.

Mr. **Corrada**. We will take your offer and, of course, we do request that the study be made available to the subcommittee.

Mr. **Smith**. Yes, sir.

We will make it available.

Mr. **Corrada**. All right.

[The report follows:]

SUMMARY FINDINGS
REPORT ON MANAGEMENT SURVEY
OF
THE ANTILLES CONSOLIDATED SCHOOL SYSTEM
OCTOBER 1976

1. The Antilles Consolidated School System has not made an analysis of a variety of different instructional logics, nor developed an estimate of the results of following any of these alternatives. Consequently, policy choices have not been made clear to the council, board, or parents.

2. The curriculum consists of course offerings developed at each school and monitored principally by the teachers concerned. Schools are free to choose whether or not achievement tests are used.

3. There is no district-wide curriculum. There does not seem to be any coordination between special programs and other programs. There is no district-wide, coordinated special education program.

4. Central office structures and processes for planning and managing are indistinct or lacking. At the district and school levels, organizational planning and management tends to be ad hoc. The predominant central office management style is permissive and reactive and the distinction between organizational planning and management and curriculum planning and management appears to be unclear.

5. The central office is experiencing considerable demand for information from the educational association and other outside organizations. The collection of data, often not available in routine reports, has imposed an additional workload.

6. Many operational tasks are assigned to the office of the Assistant Superintendent for Services, which has created an imbalanced workload and overcentralization of tasks, resulting in a bottleneck.

7. There is a lack of adequate district policy or knowledge of policies that exist which cover recruitment, retention, and transfer; program development, performance, and monitoring; and working relationships with parents.

8. Decision-making at the central office is largely based on precedent and past practices and not on analysis, model building, and goal setting. Decision-making at the school level is often a matter of negotiation between interest groups.

9. The central office bases for decision-making in the allocation of funds for educational materials, and response to requests for additional funds, are not known in the schools.

TAB A

10. Communication appears to be interpersonal rather than on organizational terms. There seems to be no recognition that communication systems support an organizational mission. The open door communication device used by the Superintendent and Principals is not the [illegible] designed system which delivers information throughout the [illegible] lack of a designed system acts as a deterrent to timely organizational action and inhibits logical understanding of the organization itself.

11. Principals seem to be more of an extension of teachers than of management. Their involvement in district management is minimal. Principals did not report making significant management decisions, nor being involved in analysis of various factors weighed in the making of decisions.

12. In-service training seems to be non-existent. The staff development reported is judged to be that of incidental occasions of information giving, rather than a planned, coordinated program of in-service training designed to meet specific educational objectives.

13. The budget process is primarily one of negotiation and bargaining among the central office staff and school principals, rather than one of setting objectives and then planning and controlling to achieve the objectives. Principals reported that they felt they had little impact on the budget. The Superintendent reported little involvement in the budgeting process; and since there is no budget program evaluation, chief reliance appears to be placed on visits and verbal reports between the central office staff and others. Consequently, it is possible for the system to operate inefficiently and ineffectively for some time without the Superintendent, the council, or the board being aware of the situation.

In addition to the reported findings above, the Survey Task Force observed that, due to a lack of any appreciable amount of teamwork and leadership in the central office, the central office administrators individually pursued their own programs and activities and received support for these activities from school level teachers and administrators.

CHIEF OF NAVAL EDUCATION AND TRAINING
GENERAL RECOMMENDATIONS BASED ON AN INTERPRETATION OF REPORT ON MANAGEMENT SURVEY OF THE ANTILLES CONSOLIDATED SCHOOL SYSTEM OF 30 OCTOBER 1976

Since responsibility for the operation of the Section 6, PL 81-874 schools in Puerto Rico, resides with the Commander, U.S. Naval Forces, Caribbean, the following recommendations are provided for consideration only and are not directive in nature.

I. The School Community. Analyze student population, demographic and other pertinent data to determine parent/community expectations, and student educational needs and requirements. Select instructional logics best suited to meet these needs.

II. The Educational Program. Establish basic educational requirements for each grade level and subject areas K-12. Develop a curriculum to meet these requirements and implement with appropriate instructional logics. Include a five- or six-year cyclical curriculum evaluation, revision and educational materials procurement schedule.

Establish basic curriculum in-service training programs for teachers and administrators with concentration on the instructional logics. Involve them in short and long range planning and the study of trends.

Establish a system-wide student academic achievement testing program to obtain better data regarding the effectiveness of the instructional program and to assist in curriculum planning, evaluation and revision, and the procurement of educational materials.

Establish school level education program objectives to meet or exceed basic system-wide educational requirements.

Establish policy covering educational program development, performance, and monitoring.

III. Pupil Personnel Services (PPS). There is no centrally directed PPS Program in the ACSS. Usually PPS Programs in public school systems provide direction and guidance for, and coordination of, the following activities system-wide:

A. Health Services

1. Emergency Health Services
2. Insurance of Healthful School Environment
3. Health Education
4. Health Appraisal

TAB B

B. Procedures for Pupil Accounting

   1. School and District Census
   2. School Attendance
   3. Work Permits
   4. Releases, Suspensions, Expulsions from School

C. Remedial Services

   1. Remedial Reading
   2. Remedial Speech
   3. Hearing Therapy

D. Adjustive Services

   1. Physically Handicapped
   2. Mentally Retarded - Trainable and Educable
   3. Emotionally Disturbed

E. Extracurricular Activities

F. Guidance Services

   1. Counseling
   2. Individual Appraisal Service
   3. Information Service
   4. Placement Services
   5. Follow-up Services

(See recommendations regarding the establishment of a PPS position under paragraph V.)

IV. The Budget. Develop a Program Planning-Budgeting-Evaluation System (PPBES), the process of which is based upon the setting of objectives and the planning and controlling of resources in order to achieve those objectives. The distinctions between organizational planning and management and curriculum planning and management should be made clear. A budget preparation calendar should be provided to all administrators, the advisory council, and other interested personnel.

The calendar should list significant dates, beginning with the preparatory meetings and ending with the final adoption of the budget. It should include dates for sending budget materials and instructions to division heads and schools for submitting requests to the central office.

V. Organization and Administration. Establish a system-wide structure and process for efficient planning. Make clear the distinction between organizational planning and management and curriculum planning and management. Involve school principals more in the decision-making process and in the total management of the system. Insure that decision-making is based on analysis, model building, and goal setting.

Establish a more formal and official, vertical and horizontal, system-wide communication system; implement a public relations program which will officially announce and disseminate information; define cooperative working relationships with parents. Provide a system response - versus school level or personal responses - to inquiries and requests for data from outside agencies.

Eliminate the work flow bottleneck in the office of the Assistant Superintendent for Services which has resulted from the assignment of too many tasks to that office. Consideration should be given to the establishment of a Pupil Personnel Services position in the central office - one which would be responsible for, and coordinate such district-wide activities as: health services, pupil accounting, remedial services, adjustive services (physically handicapped, mentally retarded, emotionally disturbed), extracurricular activities, and guidance services. A 3-4,000-pupil school system should have a central office structure that includes at least a superintendent, a personnel officer, and three assistant superintendents for administrative services, instructional services, and pupil personnel services.

Mr. **Corrada**. Just one last question before yielding to Mr. Weiss.

Until last year the wisdom of having an educator deal with the educational problem matters was recognized in CNET 1755.3(10i). Why have you substituted an admiral for a doctor of education as per CNET 1755.3A(9)?

Mr. **Smith**. We feel, first of all, that management of a school system should be at the lowest local level as much as possible. Admiral Flanigan, as you indicated, is located in Puerto Rico while the doctor of education who is on the staff of the Chief of Naval Education Training is located in Florida. However, we should point out that the instruction does provide for review by the Office of the Chief of Naval Education and Training, and the individual responsible at that office is a doctor of education.

Mr. **Corrada**. I would like to yield now to the gentleman from New York, Mr. Weiss.

Mr. **Weiss**. Thank you.

Dr. Smith, you work for the Navy, is that not correct?

Mr. **Smith**. Yes, sir.

Mr. **Weiss**. And is there a formula which determines under what circumstances the Navy is in charge of a particular facility or the Office of Education is responsible for the facility?

Mr. **Smith**. As I understand it the military department or service concerned at the host installation is generally designated as the executive agent for that particular school system.

Mr. **Weiss**. We have testimony here that two thirds of the kids who attend the school are children of civilian families.

Now if that is so, why should the Navy be in control?

Mr. **Smith**. I am not aware of how that decision was made at this time, sir.

Mr. **Weiss**. Dr. Stormer?

Mr. **Stormer**. Section 6 was principally enacted to take care of the situation of the education of children residing on Federal properties, primarily military installations, in those situations where no State or local tax revenues could be expended for the provision of free public education or where no suitable free public eduation could be provided. The section of this Act was—let me back off just a second by saying in the Puerto Rican situation, the school system was created to service the four military installations that were in existence when the Section 6 operation was created. It was created because of the fact that in the Puerto Rican schools the instruction was conducted in the Spanish language.

The schools originally established were schools to service Fort Buchanan, Roosevelt Roads Naval Station, Fort Allen and Ramey Air Force Base. They were operated for the purpose of serving the military who were assiged to those bases.

Subsequently, the segment of that Act was amended at one point in time to permit on a space-available basis only the inclusion of children whose parents were employed by the Federal Government and were reassigned or assigned to Puerto Rico.

At the time of the amendment there were very few non-military pupils in attendance at the schools. It is only within, I would guess, probably the last 5 to 10 years that the pupil population has reversed itself to the point that more civilian employees of the

Federal Government dependents have enrolled in the schools than military dependents.

But it basically was oriented toward serving the military.

Mr. **Weiss**. But now you say that for the past 5 to 10 years it is obvious there are more children of civilian families than military families?

Mr. **Stormer**. That is what is reported to us.

Mr. **Weiss**. Shouldn't there be or is there a provision for review of that situation so that a situation which is no longer the same as it was 5 or 10 years ago can be rectified?

Mr. **Stormer**. If I understand this correctly, we are only speaking in terms of the Fort Buchanan situation where the situation is reversing itself in terms of a ratio of military to civilian Federal employees. I am not so sure that that is the situation at other bases. The other witnesses can probably tell you more readily.

Mr. **Weiss**. If anyone has factual information on that, yes, would you?

Mr. **Stormer**. Just let me make one other point. Buchanan is part of the Antilles Consolidated School System which incorporates these other bases, also. So if you looked at it as a total, the military responsibility is greater than the civilian responsibility, if I understand it correctly.

Mr. **Weiss**. Mr. Wallace.

Mr. **Wallace**. Just in the interests of accuracy, throughout our school system the split between civilian dependents and military dependents is about 50-50. There are appropximately 1600 of each. The two-thirds figure is in one of our four areas. Two-thirds of the children in the Fort Buchanan area are civilian, roughly.

Mr. **Weiss**. What is the student population at Fort Buchanan?

Mr. **Wallace**. The student population is 1900-and-some students I believe. It constitutes close to two-thirds of our entire student body. But throughout the four areas it is about a 50-50 split with a two-thirds split in that one.

Mr. **Weiss**. It seems to me that if the situation has shifted so radically, Dr. Stormer, that there really ought to be a review of a situation which may have made a great deal of sense at the time at which it was instituted but which now no longer reflects the same factual situation.

To have one person, a naval commander, serve as the school board where you have predominantly civilian personnel involved makes those civilians—and this is the only thing I can think to compare it to an occupied civilian population.

It seems to me that you as the representative of the civilian branch of the Office of Education ought to be pursuing this with the naval people, and perhaps, presenting us with some recommendations as to how such a situation ought to be rectified if you can't do it administratively.

Mr. **Stormer**. We will look into this problem. Of course, the law presently requires us to make arrangements with the agency administering the Federal property on which children reside.

Mr. **Weiss**. The other question I have again is a factual one. I was as horrified as Mr. Pressler when he asked the question. I know that in the event that a tragedy takes place—and the testimony of

Mrs. Moore is replete with portents of tragedy it is going to be the children and the teachers and the families of those people who are going to be the victims. They will be the ones who will be suffering. But in that eventuality which hopefully will never occur, we would then have a broad investigation and inquiry.

I wonder if, before a tragedy takes place, you would be able to project as to who would be held accountable in a situation where the corridors are so narrow that the children cannot travel from class to class and where there are not sufficient fire alarms? If a tragedy occurred, I assume the naval commanders or the Office of Education would be held responsible.

Can you project who should be responsible in that kind of situation and isn't there some self-interest perhaps in making sure that that kind of tragedy never takes place?

Mr. **Stormer**. I think you are correct. There is self-interest in that. I would hesitate to think that. I would hope that a tragedy not occur in these kinds of deplorable situations. But inasmuch as it is a combination of U.S. Office of Education and military that are operating the system, undoubtedly the Federal Government may be held responsible.

Mr. **Weiss**. The Federal Government is a broad abstraction. We are individuals. I would assume that Mr. Corrada probably as the delegate from Puerto Rico would be one of those who would be immediately asked to provide some questions. He would then be proceeding after you and after you, Dr. Smith, and after all the other people and perhaps Admiral Flanigan to see how such a condition as that was allowed to continue when people like Mrs. Hudak and hundreds of other parents like her have been pointing out the kinds of intolerable conditions they have been allowing their children to live under day in and day out.

Mr. **Stormer**. Unfortunately, this is one example of a situation. It is a tip of an iceberg that exists not only in Fort Buchanan but it exists in other military installations and other school systems where the Federal Government does have an interest, not as direct as the Buchanan situation, but it is symptomatic of a problem that exists where Federal-connected youngsters are attending schools.

Unfortunately, I have to use the term, "the Federal Government." It is not unfortunate that I have to use the term—but I am using it in the broad sense because the conditions which have been created here are the responsibility of the Federal Government in toto.

Yes, we can ask for, within our confines, monies in which to eliminate these kinds of conditions. But ultimately the decision is one that is shared by both the Administration and the Congress that there is so much money available and there are priorities being set as to what programs shall and shall not be funded. When it gets to that point, when you are talking personally, I don't have much control.

Mr. **Weiss**. I appreciate that you don't have much control, I do think, however, that you have the capacity and perhaps the responsibility which we up here have and that is of being the advocate for those people—those children and parents—who find themselves in that kind of situation.

As Mr. Corrada indicated, if you don't ask, you don't get. We are involved in so many problems day in and day out that unless the responsible agency or department heads advocate, we are not going to know about it. So I would hope that in this kind of potentially tragedy-fraught situation we could have a greater sense of urgency and advocacy from you.

Thank you, Mr. Corrada.

Mr. **Corrada**. I have a few questions for Mr. Wallace.

In what sense is the Antilles Consolidated School Council as it presently exists unrepresentative of the student population?

Mr. **Wallace**. I have probably enlarged somewhat on that in my answer to Mr. Weiss about the proportions of our students at different installations. Let me reiterate briefly that about two-thirds of our children reside 50 miles away from the other third in essence. The school board resides on a Navy station which is 50 miles from two-thirds of our school population. The school officer who acts as liaison between the advisory school council and the school board resides on a naval station 50 miles from two thirds of our students and most of our civilians. The chairman of the schools council resides at that naval station. Nine of the 13 council members are in the uniformed services while 4 civilian members represent the 50 percent of our students who are civilians.

Additionally, and this may be related to military custom, but the majority of our dependent children are children of enlisted parents. The schools council seats one enlisted member and eight officer members. There is one woman among the 13 members of the council. She has not to date attended a meeting.

Decent balances would be correctible if we had an elected school board of the parental electorate and they voted to correct the imbalances.

Mr. **Corrada**. I have two questions which Mr. Pressler, the gentleman from South Dakota, asked me to ask on his behalf.

Dr. Stormer, these questions are: What would the Office of Education do if the military simply refused to supply a building for the school at Fort Buchanan?

Mr. **Stormer**. What would the Office of Education do if the military refused to supply a building? We are referring to the middle school proposition?

Mr. **Corrada**. Yes.

Mr. **Stormer**. Unfortunately, the decision for the operation of that school program is resting with the Navy at the present time. If the temporary military facilities were not available, then the recourse that I would see is that the Navy would have to institute double sessioning or overload the classrooms. Those would be the only two alternatives that I could foresee would be available to them.

The Office of Education does not at this point in time have funds to provide temporary facilities.

Mr. **Corrada**. Of course, those would be very grim prospects, the kind of education that I am sure that you would not like to have any children exposed to.

Mr. **Stormer**. That is correct, those are grim prospects, but they are prospects that school districts throughout the country periodically face. They produce an illustration of a school district servicing a military installation, an Air Force station on the Atlantic Coast, which for years operated its schools on a double session basis. It was entitled to receive a grant under Section 5 of P.L. 815, but because the funds were not there to provide that grant, they operated their school system on a double session for an extended period of years.

Other school districts which are not Federally-connected have been forced to exercise those kinds of options when, for example, the local community refused to vote a bond issue in order to provide additional facilities. They had to take the alternative of double sessioning or overloading their classrooms. So they are not avenues that have not been used before.

Mr. **Corrada**. Another question on behalf of Mr. Pressler: Why did your letters to parents cite new housing construction as a reason for the problems if the panel from Fort Buchanan claims that is not true?

Mr. **Stormer**. I can't answer that one, not knowing the letter at this point in time. Without the specific response, it may have been used as the illustration that this is the problem in a number of installations, in a general term that additional on-base housing has created these kinds of problems. It may not be necessarily at Fort Buchanan but elsewhere.

Without seeing the exact letter and the manner in which it was phrased I am not sure,

Mr. **Corrada**. Do you have that letter with you?

Mr. **Stormer**. All right, I do have the letter provided to me. It says, "the situation provided at Fort Buchanan is not unlike that at various other military installations where the continued construction of on-base military housing and the resultant increase in pupil population has aggravated it."

It is used as an illustration that this is not an uncommon occurrence, that there is a need for additional school facilities at a number of military installations.

Mr. **Corrada**. Mr. Weiss.

Mr. **Weiss**. I have one comment or suggestion.

Mrs. Moore, it seems to me that we in the subcommittee owe you and the others who came with you a debt of gratitude for bringing this situation and the conditions to our attention.

I might suggest to you that your strength can extend beyond your testimony before this subcommittee. It seems to me that in all likelihood the parent body of the school system is comprised of people from across this country. I would think that it would not be inappropriate to notify Members of Congress from home and inform them of the conditions under which your children attend school. I think that perhaps that might have some salutary effect on accelerating the improvement of conditions.

We thank you for coming.

Mrs. **Moore**. Thank you, Mr. Weiss. We are beginning to work on your suggestion and have made some progress. Thank you.

Mr. **Corrada**. Majority Counsel, Mr. Jennings, would like to ask some questions.

Mr. **Jennings**. Dr. Smith, this committee has oversight responsibility for the Department of Defense overseas schools and a while ago the chairman and Mr. Quie sent the staff to look at some schools in Iceland and in Europe. At that time we were told in a number of situations that the base commander had made available maintenance funds to schools which were on his base.

My question to you is: Why in this situation didn't the base commander make available some funds, or did he, to bring these buildings up to a better condition?

Mr. **Smith.** I am not familiar with the base commander's authority with regard to DOD school maintenance. I do not know whether or not funds were made available through the Fort Buchanan base for renovation of these buildings.

Mr. **Jennings.** Do the witnesses from Fort Buchanan know whether or not the base commander has made any funds available to bring these buildings up to better condition?

Mrs. **Moore.** No, we don't know.

Mr. **Corrada.** The base commander is here, Colonel Peters. Perhaps he could answer that question.

Colonel **Peters.** Funds were not made available on a contingent basis since they are not DOD schools. It is also not the purpose for which the buildings were established.

Secondly, the buildings were declared unfit for occupation and uneconomically repairable. It was for that reason a decision was made to tear them down so funds were not made available to renovate them to any standard that would be acceptable to the school system and HEW.

Mr. **Jennings.** Were there any other buildings available under your command that could have been made available?

Colonel **Peters.** There are some other buildings. The temporary solution to the problem is taking advantage of some other buildings which I am making available.

Mr. **Jennings.** It seems to me that your statement where you said that the schools are not the Department of Defense schools seems to imply that since the schools do not receive their appropriations from the Department of Defense, they do not come under the direct administrative authority of the Department of Defense and there seems to be a feeling of lack of responsibility for the schools.

Colonel **Peters.** It is not a question of lack of responsibility. The activities on the post come from DOD-MCA funds. Whatever construction and maintenance is done is through that budget. There are no funds in that budget for the operation of HEW facilities.

Mr. **Jennings.** Have you ever requested funds in your budget for that purpose?

Colonel **Peters.** For which purpose?

Mr. **Jennings.** For maintenance of repair of these facilities?

Colonel **Peters.** I have not. I made the decision that those buildings were not economically repairable and should be demolished.

Mr. **Jennings.** Did you request funds for maintenance of any other buildings on your base for use for this purpose?

Colonel **Peters.** I have not.

Mr. **Jennings.** Doesn't it seem like the school is falling between the cracks between two agencies?

Colonel **Peters**. That is probably correct, and that is the reason why I highlighted this a year ago. Something needed to be done, because those buildings were not fit for occupation. I surfaced the problem at that time because the solution was to demolish the buildings.

Mr. **Jennings**. Do you think it would be appropriate to make the school or school system part of the DOD overseas school system?

Colonel **Peters**. I don't think so. I am not really qualified to get into the administration of the school system per se between DOD and Health, Education and Welfare.

Mr. **Jennings**. From the testimony today it seems to me at least, and I would appreciate your comments on it or Dr. Smith's, that in this situation the base commander seems to have more control over the school system than even in the Department of Defense school system where there is a separate budget for the schools and a separate bureaucracy handling the schools. In this situation the authority of the base commander seems to be greater.

Colonel **Peters**. Let me clarify, it is not the base commander. I have no responsibility in the conduct of the school on Fort Buchanan. There are three schools which are operated there. I have a representative who sits on the council because they are using the facilities and need my help in how they do their daily business. I have nothing to do with the administration of the school. This is the responsibility of the superintendent of the school system.

As an interested parent I have people who attend the council meeting since they are held in open session and make comments on how they feel the school should run. I make no recommendations to the school principal or the superintendent on the curricula, on the hours of the school or any other matter. I provide facilities for their transportation system, athletic facilities which the school uses for their sports program and that sort of thing.

But administration of the schools, under the Public Law, is HEW and therefore channeled through the Navy as the HEW representative. But that is not as a base commander but as an overall military commander in the Caribbean.

Mr. **Jennings**. Thank you.

Mr. **Corrada**. Let the record show that Colonel Robert Peters, Commanding Officer of Fort Buchanan, has been answering several questions posed to him by staff counsel, Mr. Jennings.

Mr. **Jennings**. Is it possible, Dr. Smith, to provide us with an analysis or with a comparison between the administrative structure in this situation and the structure of the Department of Defense overseas schools? It would be interesting to find out who has authority for what types of things as between those two types of situations.

Do you have any comment that you can make at this time on that?

Mr. **Smith**. The DOD overseas dependent schools are administered by the Department of Defense rather than by the various services.

Mr. **Jennings**. But they are subdelegated to various services. The Department of Navy is responsible for the Atlantic region, Army for the European and Air Force for the Pacific. So even though it is a

DOD responsibility, it is subdelegated in different areas of the world to different branches of the service?

Mr. SMITH. No, sir, that is no longer true. As of 1 July 1976, the roles of the services which you just delineated in the various regions were assimilated totally by the Department of Defense.

Mr. JENNINGS. You are correct. I am in error. I do remember that that policy was being brought about and there was a consolidation of the school systems throughout the world. But it would still be interesting to see a comparison between the authorities in this situation and the authorities in the DOD schools now.

Unless I misunderstood Mr. Stormer, HEW provides the money but according to what you have said and also according to Dr. Smith's testimony, HEW does not seem to have any responsibility or feel any responsibility for what happens in that school. It does not seem that you, Mr. Stormer have any authority over the quality of the curriculum, over the quality of the teachers or even over the condition of the buildings. It seems that you are the conduit for the money, without looking at the content of the education being provided; is that correct?

Mr. STORMER. That is essentially correct. We look at it from the standpoint of fiscal support of the school systems which are operated under Section 6, that the amounts of money expended on a per pupil basis are essentially comparable to other areas, other than Puerto Rico, to five other comparable school districts within the State, including the adjacent school district and the Capital City school district; in Puerto Rico, that they are comparable on a per pupil basis with the District of Columbia.

We have not, other than the examination of the budgets, exercised control over the curriculum or who they hire as teachers or administrators.

Mr. JENNINGS. Do you think it would make more sense to have the agency which is responsible for the money to be also responsible for how that money is spent?

Mr. STORMER. That is a possibility.

Mr. JENNINGS. I know it is a possibility. My question was your opinion of the worth of the possibility.

Mr. STORMER. I would suspect that that probably is a reasonable conclusion. However, we have also expressed the opinion before that with the possible exception of Puerto Rico, the Section 6 operations should be terminated and that responsibility exercised by the State and the local school system that immediately adjoins the military installation.

If that were to occur, probably with the exception of Puerto Rico, there would not be Section 6 operations in other locations.

Mr. JENNINGS. In that regard, if we could put in the record a listing of the 25 Section 6 schools with their budgets and their average daily attendance, I think that would be helpful.

[Information referred to follows:]

E004200 TABLE 5.-P.L.81-874, TITLE 1, SECTION 6: AVERAGE DAILY ATTENDANCE AND PAYMENTS FOR CURRENT-EXPENDITURE PURPOSES TO FEDERAL AND LOCAL EDUCATION AGENCIES FOR FREE PUBLIC EDUCATION OF CHILDREN RESIDING ON FEDERAL PROPERTY, BY APPLICATION NUMBER AND NAME OF FEDERAL INSTALLATION AND AGENCY: AGGREGATE UNITED STATES, FISCAL YEAR 1976 FINAL PAYMENTS FOR FISCAL YEAR 1975

APPLICATION NUMBER		FEDERAL INSTALLATION ON WHICH PUPILS RESIDE (AND AGENCY WITH WHICH ARRANGEMENT MADE)	OPERATION OF SCHOOL BY FED ON INSTAL ELM	HS	LOCAL EDUC AGENCY ON INSTAL ELM	HS	OFF INSTAL ELM	HS	AVERAGE DAILY ATTENDANCE	FUNDS OBLIGATED ESTIMATED 1976	FINAL 1975
(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
ALA	0001	CRAIG AIR FORCE BASE (AF)	X						366	341,237.00	313,070.00
ALA	0002	MAXWELL AIR FORCE BASE (AF)	X						542	565,854.00	514,748.73
ALA	0003	FORT MC CLELLAN (ARMY)	X						350	320,822.00	250,225.00
ALA	0004	FORT RUCKER (ARMY)	X						988	973,335.00	920,878.00
DEL	0001	DOVER AIR FORCE BASE (LEA)	X	X					2,017	2,592,061.00	2,141,181.81
GA	0001	FORT BENNING (ARMY)	X	X					3,474	3,729,569.00	3,392,491.00
GA	0002	FORT STEWART (ARMY)	X						572	577,656.00	551,534.00
GA	0003	ROBINS AIR FORCE BASE (AF)	X						1,078	1,275,042.00	1,212,057.00
KY	0001	FORT KNOX (ARMY)	X	X					4,406	4,289,362.36	3,906,476.30
KY	0002	FORT CAMPBELL (ARMY)	X	X					3,220	3,165,725.37	2,897,344.00
LA	0001	ENGLAND AIR FORCE BASE (AF)	X						491	506,715.00	497,613.00
MASS	0004	LAURENCE C HANSCOM FIELD (LEA)	X						761	1,742,000.00	1,457,594.15
MASS	0006	LAURENCE C HANSCOM FIELD (LEA)						X	297	70,576.00	68,617.70
N Y	0001	U S MILITARY ACADEMY WEST POINT (ARMY)	X					X	1,029	1,532,823.00	1,471,521.00
N Y	0004	COAST GUARD BASE GOVERNORS IS (TRANS)	X						443	192,060.00	180,590.00
N C	0001	FORT BRAGG (ARMY)	X					X	5,871	5,855,676.00	5,114,412.00
N C	0002	MARINE CORPS BASE CAMP LEJEUNE (NAVY)	X	X					4,030	4,770,095.00	4,786,887.00
OREG	0004	CRATER LAKE NATIONAL PARK (LEA)	X	X					15	26,319.91	16,363.00
PA	0007	ERIE COAST GUARD STATION (LEA)						X	7	4,098.36	4,074.70
S C	0002	MARINE CORPS AIR STA BEAUFORT (NAVY	X						1,228	1,329,972.00	1,251,104.00
S C	0003	MYRTLE BEACH AIR FORCE BASE (AF)	X						840	852,305.00	798,293.00
S C	0004	FORT JACKSON (ARMY)	X						1,098	1,192,310.00	1,216,263.00

JH04Z00 TABLE 5.-P.L.81-874, TITLE I, SECTION 6: AVERAGE DAILY ATTENDANCE AND PAYMENTS FOR CURRENT-EXPENDITURE PURPOSES TO FEDERAL AND LOCAL EDUCATION AGENCIES FOR FREE PUBLIC EDUCATION OF CHILDREN RESIDING ON FEDERAL PROPERTY, BY APPLICATION NUMBER AND NAME OF FEDERAL INSTALLATION AND AGENCY: AGGREGATE UNITED STATES, FISCAL YEAR 1976

FINAL PAYMENTS FOR FISCAL YEAR 1975

APPLICATION NUMBER		FEDERAL INSTALLATION ON WHICH PUPILS RESIDE (AND AGENCY WITH WHICH ARRANGEMENTS MADE)	OPERATION OF SCHOOL BY FED ON INSTAL		LOCAL EDUC AGENCY ON INSTAL		OFF INSTAL		AVERAGE DAILY ATTENDANCE	FUNDS OBLIGATED ESTIMATED 1976	FINAL 1975
			ELM	HS	ELM	HS	ELM	HS			
(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
VA	0001	QUANTICO MARINE CORPS SCHS (NAVY)	X	X					1,810	3,313,760.00	3,064,790.00
VA	0002	DAHLGREN NAVAL WEAPONS LAB (NAVY)	X						130	215,316.00	196,950.00
P R	0003	ANTILLES CONS SCHS (NAVY)	X	X					3,350	6,525,220.00	6,450,697.00
TOTAL		25 INSTALLATIONS	23	8				4	38,473	45,958,960.00	42,675,678.39

Mr. Jennings. I would like to ask you from that chart, 5 of the Section 6 schools are not under the authority of one of the military agencies but rather are under the authority of local educational agencies. In those 5 situations, what degree of authority do you have over the quality of the instruction offered in those buildings or again are you merely a fiscal conduit?

Mr. Stormer. We are merely a fiscal conduit in those situations.

Mr. Jennings. According to this chart, there are 5 schools under the authority of local education agencies.

Mr. Stormer. If I can recall them, Hanscom——

Mr. Jennings. Dover Air Force Base, Laurence Hanscom Field, there are 2 schools there. There is Crater Lake National Park, Erie Coast Guard Station, and I guess that is 5.

Now, do the local public school districts actually operate the school in each one of those 5 situations?

Mr. Stormer. Yes, local public schools operate at Hanscom Dover, Crater Lake and Erie.

Mr. Jennings. You mean the Erie Coast Guard Station?

Mr. Stormer. Yes, in Erie the children are educated in the regular public schools with support provided under Section 6.

Mr. Jennings. Do you have any reviews done at all on the quality of the education in those 5 schools?

Mr. Stormer. We have not reviewed the education in terms of quality of program, curricula, no.

Mr. Jennings. So you are providing, for instance for the Dover Air Force Base, $2 million a year and you have not looked at the quality of the curriculum being offered?

Mr. Stormer. Let me back off a little bit on that and say we do not evaluate the curriculum per se. We have had discussions relative to the offerings but principally that school district is contracted with to offer the administration and supervision of the school that is situated on Dover Air Force Base. We have had discussions with respect to whether their offerings are comparable with the offerings within the Caesar-Rodney school district, but we have not exercised any control.

Mr. Jennings. What is the nature of those discussions? Are they on paper?

Mr. Stormer. Portions of them are.

Mr. Jennings. I think it would be helpful if you could include some of them in the record. I think there would be a concern on the part of Members of Congress that if they are providing $2 million to a local school district to operate a school, that there be some check somewhere along the line on what is happening with that money, not just in fiscal terms in the sense that it goes into the budget of that school but in the sense of what is being offered in that building.

Mr. Stormer. I am not implying that it is solely on a per pupil basis. There are reviews done by our program officers of the pupil-teacher ratios. There are reviews of the subject offerings in terms of the numbers and type of subject offerings. But the quality, as to whether or not it is a quality offering, there is no judgment made there. There is a judgment made whether those subject areas that are necessary for the education of these secondary pupils, and I am saying secondary pupils at this point, whether those subject offerings are made.

But in terms of the exact quality of those subject offerings, no.

Mr. **Jennings**. It would be helpful to include in the record the subject of those offerings and the pupil-teacher ratios.

Thank you.

[The information referred to follows:]

In their letter of proposal, the Caesar Rodney School District agrees to provide to the children residing on Dover Air Force Base an educational program comparable to those of the surrounding communities in Delaware. Their program provides normal elementary educational opportunities including music, physical education, art and library services for children in Kindergarten through grade six; and normal secondary educational opportunities including academic, general, vocational, scientific curricula, guidance, extra curricular, library and art activities for children in grades seven through twelve. Because of limited school faciities on-base, the school district provides education to approximately 100 children on a tuition basis in off-base facilities.

Pupil-teacher ratios are maintained in accordance with Delaware law: one teacher for every twenty-five pupils in grades one to six and one teacher for every twenty pupils in grades seven through twelve; kindergarten teachers are provided on the basis of one teacher per forty-eight students on a half day session. The number of pupils per teacher in the on-base schools is usually smaller because of a more limited membership.

Based on a memorandum for the record the following concerns were expressed by members of the Dover Air Force Base PTA in our discussions with them on March 9 and May 20, 1977:

1. The effect of the "Governor's Proposed Education Cuts" on the Dover Section 6 schools; the possibility of lowering present standards.
2. No library services in the summer.
3. The need for more enrichment funds for intermural sports and curriculum—related field trips.
4. School crossing guards. Responsibility for providing guards has been assumed by PTA because of a jurisdictional dispute over the Lebanon Road school crossing, the scene of an accident involving an elementary pupil. Lebanon Road is a State highway running through the base; neither the Air Force police nor other security forces in the Dover area have jurisdiction. Crossing guards now being funded by PTA which could be held liable for any accident.
5. Inadequate cafeteria facilities.
6. Local people are unaware that Section 6 funds the on-base schools which results in concerns that their tax dollars are being stretched. For better public relations, the Dover AFB PTA would like representation on the school board of the Caesar Rodney School District.
7. They feel comparability is exclusive to the Caesar Rodney School District and want more comparability with other Delaware school districts as regards subject offerings. Even Caesar Rodney has more subject offerings than those available in the Section 6 high school. They feel that the needs of the handicapped have not been met sufficiently.

We have asked the Air Force for assistance in evaluating these concerns and in implementing any corrective action that is determined jointly.

I would like to provide more details regarding some of the other LEA arrangements. At Hanscom, the Lincoln Public Schools (the district in which the base is located) provide elementary education in the on-base schools; they also share some of their own facilities. Section 6 provides the full cost to Lincoln for educating elementary children residing on Hanscom. They will provide no less in the on-base schools than their own high standard of elementary education. Lincoln does not have a high school. High school students residing on Hanscom are educated by and in the Bedford Public Schools with support provided under Section 3. Bedford is willing to educate these students even though Hanscom is not located within their school district. But because the students do not live within their district, they are not able to provide transportation.

Section 6 in this instance, provides only transportation costs to Bedford.

Elementary and high school students residing in Crater Lake National Park are educated in the regular public schools of Klamath County, Oregon, with full tuition costs provided by Section 6.

Mr. CORRADA. Dr. Stormer, the committee would like to have the report you mentioned that would be available by August 30th when that is available. Several members of the committee would like to submit written questions to the panel or some of the members of the panel.

Without objection the record shall remain open to receive these.

Mr. CORRADA. Next Tuesday morning at 9:30 a.m. we shall resume the hearings on Impact Aid.

The subcommittee will now recess until such time. Thank you very much.

[Whereupon, at 12:10 p.m. the subcommittee recessed, to reconvene at 9:30 a.m., Tuesday, June 28, 1977.]

[Additional materials for inclusion in the record follow:]

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225-4368

CONGRESS OF THE UNITED STATES
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CARL D. PURSELL, MICH.

July 5, 1977

The Honorable Clifford L. Alexander, Jr.
Secretary of the Army
The Pentagon
Washington, D. C.

Dear Mr. Secretary:

The Subcommittee on Elementary, Secondary, and Vocational Education recently held a hearing on the schools on military bases under Section 6 of P.L. 81-874, impact aid. During the course of this hearing, one of the major issues revolved around the funding and administrative structure of these schools.

As part of our hearing record, I am writing to ask your opinion on several questions related to the administration and control of these Section 6 schools:

1. Should the Office of Education continue to be the funding source for these schools, even though the daily administration is handled by the Department of Defense?

2. What would be the effects if these schools were brought completely under the Office of Education, including administration?

3. Should the services continue to administer these schools? If so, should they be funded through the Department of Defense or through the individual services rather than through the Office of Education?

I would appreciate hearing your opinions on these questions by July 15th, since we would like to make your response part of our hearing record.

Thank you.

Sincerely,

Carl D. Perkins
Chairman

CDP/jm

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

MANPOWER,
RESERVE AFFAIRS
AND LOGISTICS

15 JUL 1977

Honorable Carl D. Perkins
Chairman, Committee on
Education and Labor
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your letter of July 5, 1977, to the Honorable Clifford L. Alexander, Secretary of the Army, regarding the operation and funding of schools on military installations in the United States which are operated under provisions of Section 6 of Public Law 81-874, the Impact Aid legislation.

I am sure you appreciate that all of the Military Departments have administrative responsibilities for Section 6 schools at the present time. We actually have 19 schools within the United States, including two in Puerto Rico. They are administered by Department as follows:

Army	- 9
Air Force	- 5
Navy	- 2
Marines	- 3

Since Section 6 schools are a Department-wide responsibility, it is more appropriate to provide you with a DoD response. Our reply to the specific questions in your letter follows:

Question 1. Should the Office of Education continue to be the funding source for these schools, even though the daily administration is handled by the Department of Defense?

Yes, the Office of Education should continue to be the funding source for Section 6 schools, even though they are administered by the Department of Defense. It is not considered appropriate for the Department of

Defense to be in competition with public/private school systems in the United States, which could appear to be the case if such funding were in the Department of Defense budget.

Question 2. What would be the effects if these schools were brought completely under the Office of Education, including administration?

It is difficult to predict the effects on these schools if they were administered by the Office of Education. The Department of Defense will solicit the views of the Office of Education and the Military Departments in this matter.

Question 3. Should the services continue to administer these schools? If so, should they be funded through the Department of Defense or through the individual services rather than through the Office of Education?

The Services should continue to administer these schools. As stated above, the funding source should remain with the Office of Education. It may be feasible to centralize the operation of these schools in one office, but time will be required to review this question. In accordance with the intent of provisions of Public Law 81-874, as amended, Department of Defense policy will continue to be that Section 6 schools should be turned over to local and state jurisdictions when assurance is given that an adequate education will be provided.

Your interest is sincerely appreciated.

Sincerely,

RBPirie

ROBERT B. PIRIE, JR.
Principal Deputy Assistant Secretary of Defense (MRA&L).

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225-4368

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CARL D. PURSELL, MICH.

July 5, 1977

Dr. David Smith
Assistant for Dependents Education/
Youth Programs/ Graduate Education
Office of the Director of Naval Education
and Training
Office of CNO (OP-991 E-2)
Department of Defense
Washington, D. C.

Dear Dr. Smith:

During the course of the Subcommittee's hearing on June 23rd on Section 6 schools under the impact aid program, you were informed that some of the Committee members had additional questions for you which, because of time limitations, we were unable to pursue.

We have attached these questions to this letter, and would appreciate your timely response for insertion in the hearing record. We would like a response no later than July 15th, since we hope to send the hearings to the printer by that date.

Thank you again for appearing as a witness, and I will look forward to your responses.

Sincerely,

Carl D. Perkins
Chairman

CDP/jm

Questions for Smith

1. Why was the decision made last year transferring administration of the Ft. Buchanan school from the Chief of Naval Education and Training in Florida to the Commander, U. S. Naval Forces, Caribbean?

2. Has the possibility of an elected school board for the Ft. Buchanan school ever been considered? Do you think this would be a feasible alternative to the present administrative structure, which appears to have fostered many problems?

3. Could you provide us with an analysis of the administrative structure of the Ft. Buchanan school system as it compares with the administrative structure of the Department of Defense Overseas Dependent Schools? Do you think it would be appropriate to make the Ft. Buchanan school a part of the Department of Defense Overseas System?

4. Why won't DOD assume the construction costs for a Section 6 school when the situation is as bad as the one which exists in Puerto Rico?

5. We have received a number of complaints regarding the public schools on Guam and their inadequacy for the children of military personnel. Since DOD runs the school in Puerto Rico, why won't it do the same thing in Guam?

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

SUBJECT OF HEARING Section 6 Schools under Impact Aid Program

DATE OF HEARING June 23, 1977

Chairman Perkins. Why was the decision made last year transferring administration of the Ft. Buchanan school from the Chief of Naval Education and Training in Florida to the Commander, U.S. Naval Forces, Caribbean?

Dr. Smith. The Chief of Naval Education and Training (CNET) has never been responsible for the administration of the Fort Buchanan school or any other Section 6, P.L. 81-874 school.

The U.S. Office of Education (Department of Health, Education, and Welfare), School Assistance in Federally Affected Areas (SAFA) Bulletin No. 12 (Revised) of January 1, 1964, "Provision of Free Public Education for Children Pursuant to Section 6 Public Law 874 (81st Cong.) as Amended," informs state and local educational officials and federal officials of (1) the authority and responsibility of the U.S. Commissioner of Education to make arrangements for the provision of free public education under Section 6, P.L. 874, (2) the policy of the Commissioner in making arrangements for such free public education, and (3) sets forth the procedures to be used in the preparation and submission of requests for such arrangements.

Under VI.C.1 of Bulletin 12, commanding officers of military installations are required to forward letter proposals (fiscal year budget requests for the operation of Section 6 schools on military installation/s) through appropriate channels to department or agency headquarters. CNET is the federal agency headquarters required under VI.E.1 of Bulletin 12 to (1) review letter proposals (forwarded by Navy installation commanders), (2) certify as to the accuracy of the facts presented, (3) recommend approval or modification, and (4) forward with the recommendation to the U.S. Commissioner of Education.

CNET Instruction (CNETINST) 1755.3A of November 8, 1976, "Provision of Education for Dependents in Puerto Rico under Section 6 of Public Law 81-874, as Amended," implements SAFA Bulletin 12 for the operation of Section 6 schools in Puerto Rico.

The Navy operates a school system of seven Section 6, P.L. 81-874 dependents schools in Puerto Rico. Three of these schools are located at Fort Buchanan. Authority for the operation and administration of this Section 6 school system is the responsibility of the Commander, U.S. Naval Forces, Caribbean (COMNAVFORCARIB) who is located at Roosevelt Roads, Puerto Rico. Under the provisions of CNETINST 1755.3A he serves in a capacity similar to a board of education in a public school system in the United States, and is required to establish an advisory council composed of a representative group of school patrons. He is also required to select and appoint a school superintendent to insure that the school system is operated in compliance with U.S. Office of Education and CNET policies; insure that the high schools maintain accreditation; and on a non-reimbursable basis provide the superintendent with accounting, disbursing, contracting, procurement, and personnel services. In his school board role and following the recommendations of the school patron advisory council, he specifically:

A. Establishes local operating policies and procedures.

B. Establishes policies and procedures consistent with federal, Department of Defense, and Navy regulations for the retention and release of school personnel.

C. Adopts procedures permitting school employees to present their views on matters affecting the educational program before policy procedures are made.

D. Transmits official business with school employees only with or through the school superintendent.

E. Develops policies to attract and retain qualified and competent employees.

F. Recommends approval of the Letter of Proposal (annual budget) to CNET.

G. Specifies reports to be submitted by the superintendent regarding the operation of the school system.

H. Directs the superintendent to prepare, with the cooperation of school level staff, recommended policies and procedures as a basis for the administration of the school system.

I. Insures against inappropriate interference in the administration of the school system.

J. Acts as the final local arbitrator on all matters relating to the school system which come from within his expressed or implied authority as a board of education.

CNET provides general supervision of the program and monitors support provided by the Navy in Puerto Rico, to the necessary extent of complying with VI.E.1 of SAFA Bulletin 12. COMNAVFORCARIB operates and administers the program in compliance with CNETINST 1755.3A. Both CNET and COMNAVFORCARIB comply with the intent of SAFA Bulletin 12 in order to qualify for U.S. Office of Education funds which quarterly reimburse the Navy for the operation of Section 6 schools in Puerto Rico.

CNET and COMNAVFORCARIB endorse the American educational philosophy of involving school patrons in the determination of policy and procedures for the local administration of elementary and secondary schools, and that operational decisions affecting students and staff should be made at the lowest possible level. Realistically, CNET in Pensacola, Florida, is too far removed to be effective in the administration of dependents schools located in Puerto Rico.

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

SUBJECT OF HEARING Section 6 Schools under Impact Aid Program

DATE OF HEARING June 23, 1977

Chairman Perkins. Has the possibility of an elected school board for the Ft. Buchanan school ever been considered? Do you think this would be a feasible alternative to the present administrative structure, which appears to have fostered many problems?

Dr. Smith. There is no evidence that this has been considered one way or the other. Navy is of the opinion that the present administrative structure is satisfactory and capable of administering and implementing policy developed by either an elected or an appointed school board.

The Commander, Naval Forces Caribbean serves in a capacity similar to a board of education in a public school system. He is advised by an appointed active council of school patrons prior to the establishment of policy for the operation and administration of the Section 6, P.L. 81-874 school system operated by the Navy in Puerto Rico.

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

SUBJECT OF HEARING Section 6 Schools under Impact Aid Program

DATE OF HEARING June 23, 1977

Chairman Perkins. Could you provide us with an analysis of the administrative structure of the Ft. Buchanan school system as it compares with the administrative structure of the Department of Defense Overseas Dependent Schools?

Dr. Smith. There is no Fort Buchanan school system. There are three Section 6, P.L. 81-874 schools, however, located on Fort Buchanan which are a part of the Antilles Consolidated School System (ACSS) which consists of the following:

Location	Grade Spread	Enrollment	Administrative Structure
Fort Allen	K-12	132	1 Principal
Fort Buchanan Elementary School	K-4	700	1 Principal
Fort Buchanan Middle School	5-8	657	1 Principal 1 Asst. Principal
Fort Buchanan High School	9-12	530	1 Principal 1 Asst. Principal
Ramey School	K-12	311	1 Principal
Roosevelt Roads Elementary School	K-3	368	1 Principal
Roosevelt Roads Middle School and High School	4-12	543	1 Principal 1 Asst. Principal

These schools are administered by a central office staff located at Fort Buchanan. The administrative structure is as follows:

Title	Equivalent GS Rating
1 Superintendent	GS-14
1 Assistant Superintendent - Services	GS-13
1 Assistant Superintendent - Curriculum (on leave)	GS-13

The administrators of the central office are supported by a staff of:

Title	Equivalent GS Rating
1 Curriculum Specialist	GS-12
1 Curriculum Specialist	GS-11
1 Curriculum Specialist	GS-9
1 Budget Analyst	GS-7
1 Personnel Assistant	GS-7
1 Transportation Coordinator	GS-4
1 Food Service Coordinator	GS-7
1 Health Services Supervisor	GS-7
1 Supply and Purchasing Coordinator	GS-4
1 Maintenance Supervisor	Wage Grade 10

Only one Curriculum Specialist is normally employed at the central office level, but two additional specialists were transferred from the school level to serve for school year 1976-77 during the absence of the Assistant Superintendent for Curriculum who was on educational leave without pay. The Assistant Superintendent for Curriculum is scheduled to return for the 1977-78 school year and the two specialists will be released from the central office.

The Atlantic Region of the Department of Defense Dependents School System is comparable in number of schools and enrollment to the ACSS in Puerto Rico. The region consists of the following:

Location	Grade Spread	Enrollment	Administrative Structure
Antigua, West Indies School	K-8	30	Attached to Cuba
Argentia, Newfoundland School	K-12	140	1 Principal
Azores Elementary School	K-6	560	1 Principal
Azores Middle School and High School	7-12	270	1 Principal 1 Asst. Principal
Bermuda Elementary School	K-6	295	1 Principal

Location	Grade Spread	Enrollment	Administrative Structure
Bermuda Middle School and High School	7-12	185	1 Principal 1 Asst. Principal
Cuba Elementary School	K-6	700	1 Principal
Cuba Middle School and High School	7-12	370	1 Principal 1 Asst. Principal
Eleuthera, Bahamas School	K-8	54	Attached to Cuba
Keflavik, Iceland Elementary School	K-6	530	1 Principal
Keflavik, Iceland Middle School and High School	7-12	270	1 Principal 1 Asst. Principal

The Atlantic Region Department of Defense Dependents Schools were administered during the 1976-77 school year by a central office of two line and seven staff personnel listed as follows:

Title	GS Rating
1 Director	GS-15
1 Deputy Director	GS-14
1 Assistant Director	GS-14
1 Education Specialist - Curriculum and Instructional Services	GS-13
1 Education Specialist - Logistics and Management Services	GS-13
1 Education Specialist - Personnel Services	GS-13
1 Education Specialist - Publications/Public Relations	GS-13
1 Education Specialist - Procurement and Property Control/Textbook and Equipment Inventory	GS-13
1 Education Specialist - Library and Media Services	GS-13

A comparison of the administrative structure of ACSS and Atlantic Region of the Department of Defense Dependents Schools (DODDS) is as follows:

	ACSS	DODDS Atlantic
Enrollment	3,241	3,404
Number of Schools	7	11
Number of Principals	7	9
Number of Assistant Principals	3	4
Number of Professional Central Office Staff	14	9
Ratio of Central Office Professional Personnel to Students	1/232	1/425
Average Grade Level of Central Office Staff	9.1	13.4

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

SUBJECT OF HEARING Section 6 Schools under Impact Air Program

DATE OF HEARING 23 June 1977

Chairman Perkins. Do you think it would be appropriate to make the Ft. Buchanan school a part of the Department of Defense Overseas System?

A separate response is being staffed and will be provided in approximately two weeks.

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

SUBJECT OF HEARING Section 6 Schools under Impact Aid Program

DATE OF HEARING June 23, 1977

Chairman Perkins. Why won't DOD assume the construction costs for a Section 6 school when the situation is as bad as the one which exists in Puerto Rico?

Dr. Smith. The Department of Defense is precluded from assuming construction costs for a Section 6 school by P.L. 81-815, Chapter 19, Title 20, Article 643(c) which states that:

> "No appropriation to any department or agency of the United States, other than appropriation to carry out this chapter, shall be available for the same purpose as this chapter; except that nothing in this subsection shall affect the availability of appropriations authorized, prior to September 23, 1950, for the construction of school facilities to be attended by Indian children or appropriations (1) for the construction of school facilities on Federal property under the control of the Atomic Energy Commission, (2) for the construction of school facilities which are to be federally operated for Indian children, or (3) for the construction of school facilities under the Alaska Public Works Act, approved August 24, 1949."

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

SUBJECT OF HEARING Section 6 Schools under Impact Aid Program

DATE OF HEARING June 23, 1977 .

Chairman Perkins. We have received a number of complaints regarding the public schools on Guam and their inadequacy for the children of military personnel. Since DOD runs the school in Puerto Rico, why won't it do the same thing in Guam?

Dr. Smith. Section 6(a) of Public Law 81-874 was enacted to permit the Commissioner of Education to arrange for the education of children who reside on Federal properties under the very limited circumstances when either of the following conditions exists:

> "In the case of children who reside on Federal property (1) if no tax revenues of the state or any political subdivision thereof may be expended for the free public education of such children, or (2) if it is the judgment of the Commissioner, after he has consulted with the appropriate state educational agency, that no local educational agency is able to provide suitable free public education for such children, the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children."

In the case of Puerto Rico, the local educational authority was unable to provide suitable free public education for federal dependents primarily because of the language problem. English as the main language of instruction could not be provided for within the framework of the local educational agency which utilizes Spanish as the language of instruction for indigenous Puerto Rican students. So, in 1952, a federally funded Section 6 school system was inaugurated under the provision and intent of the Act.

In the case of Guam, the language of instruction in the public schools is English. Therefore, the rationale for the establishment of a Section 6 school in Puerto Rico does not hold for Guam. However, during school year 1975-76, Navy and Air Force received numerous complaints, from their respective personnel, about the quality of education provided for their dependent children in the public schools on Guam. Following an investigation of the matter, a request for the establishment of a Section 6 school (for federal dependents living on

Guam) was made to the Department of Health, Education, and Welfare (HEW) by the Department of Defense (DOD). Following a joint HEW/DOD on-site survey of the Guam public school system, the U.S. Office of Education (USOE) recommended a technical assistance program as an alternative to a Section 6 school.

Subsequently, HEW and DOD developed an action plan designed to improve the quality of public education on Guam. To implement the action plan and to meet short and long term objectives, HEW provided expertise, personnel and funding to aid Guam's schools. Recognized experts were contracted by HEW to provide assistance during school year 1976-77 in the following areas: fiscal management and budget development; organization and management; volunteers in education; instructional services center design; team teaching via open space; educational testing program; language arts; reading; mathematics, and social studies. To alleviate classroom shortages caused by Typhoon Pamela in May 1976, Navy provided 40 Butler type buildings for use as classrooms. Further, an individual was assigned from USOE to monitor the technical assistance program on Guam.

Reports from Guam indicate that initial and later efforts to improve the schools have generated positive attitudes in both parents and school system personnel. However, DOD has requested that HEW continue to monitor the Guam public school situation closely to insure continued improvement of the total educational system.

HOUSE COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

SUBJECT OF HEARING Section 6 Schools under Impact Aid Program

DATE OF HEARING June 23, 1977

Chairman Perkins. Do you think it would be appropriate to make the Ft. Buchanan school a part of the DOD Overseas System?

Dr. Smith. It is felt that the individual Services should continue to administer their respective Section 6 schools. In this case, Navy would continue to administer the Antilles Consolidated School System which includes the schools located at Ft. Buchanan.

UNITED STATES HOUSE OF REPRESENTATIVES

Subcommittee

Elementary, Secondary and Vocational
Education

20 June 1977

Statement of

Thomas A. Bobo
Assistant Superintendent

Montgomery Public Schools
Box 1991
Montgomery, Alabama 36103

PL 81-874 and PL 81-815--Pinpoint Disaster Assistance

Mr. Chairman:

I wish to thank you and the Committee for the opportunity of speaking to you concerning Pinpoint Disaster Assistance. The Montgomery Public School System, Montgomery, Alabama, had the unfortunate experience of having lightning strike the Capitol Heights Elementary School, 2007 Winona Avenue, causing a complete loss of the structure and contents of the building. This building consisted of nineteen (19) rooms and it was a structure that was very vital to this school system. Its loss was a major disaster to the Montgomery Public School System; and it is estimated that its replacement would cost approximately 2 million dollars. The Montgomery Public School System made application under the Pinpoint Disaster provision of PL 874 and PL 815 for the replacement of equipment and materials.

I believe that the Regulation in the Federal Register dated November 17, 1976 for PL 81-874 and PL 81-815 should be drastically changed.

#112.3(c) Upon approval of the complete application of a local educational agency under section 16(a)(1)(B) of the Act, the Commissioner shall enter into a loan agreement with the local educational agency. Such agreement shall state the amount of the loan; payments, if other than lump sum; rate of interest; duration of loan; and place, medium, and amounts of repayments; description of bonds, if such are to be issued. All loans from the Federal Government to the local educational agency shall be for a period of not more than 5 years at the prevailing rate of interest established by the Small Business Administration for disaster assistance in major disaster areas.

(d) No construction contract exceeding the estimated cost as shown in the project application shall be entered into without prior approval.

A major change that I would like to suggest is that a Pinpoint Disaster for a local school system be declared a major disaster. A loss of 2 million dollars out of a total local budget of $25,960,000 in the Montgomery Public Schools is a major disaster. If a Pinpoint Disaster cannot be declared a major disaster, it is suggested that the Federal Government loan policy for pinpoint disaster situations be changed so that the interest level will be much lower than it is presently. The repayment clause should be much longer than 5 years. Another complicated factor of this law is that many states are not permitted to borrow funds.

Your cooperation in changing the law so that public school children can receive greater assistance under a pinpoint disaster situation, would be greatly appreciated.

Mr. Chairman, again I wish to express my appreciation for this opportunity of presenting these views to you and to the Committee.

Thomas A. Bobo
Assistant Superintendent
Special Services

jmm

PART 5: IMPACT AID

TUESDAY, JUNE 28, 1977

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice at 9:30 a.m., in Room 2175, Rayburn House Office Building, the Hon. Ronald Mottl presiding.

Members present: Representatives Mottl, Heftel, Kildee, Miller, Buchanan and Pressler.

Staff present: John F. Jenkins, majority counsel; Nancy L. Kober, staff assistant; Christopher T. Cross, minority senior education consultant.

Mr. Mottl. The subcommittee will now come to order.

We would like to invite the panel up—Mr. Bobo, Mr. Shipley, Mr. Tallchief, Mr. Swicegood, and Congressman Marlenee, please. I would also like to insert in the record at this point a table showing the numbers of, and payments for, low-rent housing, handicapped, and Indian children under P.L. 874.

[Table referred to follows:]

Numbers in Average Daily Attendance and Payments for Low-Rent Housing, Handicapped, and Indian Children (Estimated for FY 1976)

Listed by Group, Number in ADA and Payment—

Low Rent Housing, 662,803,$60,091,007; Handicapped, 19,649, $11,884,733; Indian, 85,511, $57,314,634.

PANEL OF THOMAS A. BOBO, ASSISTANT SUPERINTENDENT, MONTGOMERY PUBLIC SCHOOLS, MONTGOMERY, ALABAMA; THOMAS R. SHIPLEY, COORDINATOR, EDUCATIONAL INFORMATION SYSTEMS, ANNE ARUNDEL COUNTY PUBLIC SCHOOLS, ANNAPOLIS, MARYLAND; GEORGE TALLCHIEF, SUPERINTENDENT, HAYS-LODGE POLE SCHOOL DISTRICT #50, HAYS, MONTANA; AND JACK SWICEGOOD, SUPERINTENDENT, GALLUP-McKINLEY COUNTY PUBLIC SCHOOLS, GALLUP NEW MEXICO.

Mr. Mottl. Today's hearing is the fourth day in a series of six days of hearings which the subcommittee is holding on the impact aid laws of our country.

The focus of today's hearing will be on the provision of the impact aid laws affecting various "special populations." These special populations are children from Federally assisted low rent public housing units, handicapped children of military parents, and Indian children.

The present law requires that Title I type categorical services be provided to low rent public housing children, that an adequate education to meet their needs be provided to the handicapped children of military parents, and that equitable education be provided to any Indian children for whom payments are received.

Those requirements for those three types of children range from being relatively stringent as regards the public housing children to being relatively loose, as regards the Indian children. We would like to find out today the comparative merits and demerits of each one of these three approaches. We hope that our witnesses will address these issues.

First of all, it is my privilege to introduce a colleague of mine in the House of Representatives, a gentleman doing a fine job for the State of Montana. We are honored to have him before our subcommittee to introduce one of the panelists this morning. I know he has a busy schedule, and he would like to make the introduction, and probably get on to his busy chores this morning.

Without further ado, I would like to introduce one of the learned colleagues from the great State of Montana, Ron Marlenee.

STATEMENT OF HON. RON MARLENEE, A REPRESENTATIVE IN THE CONGRESS FROM THE STATE OF MONTANA

Mr. **Marlenee**. Thank you, Mr. Chairman. I have with me and would like to introduce Mr. George Tallchief, Superintendent of the Hays-Lodge Pole School District. Mr. Tallchief has been superintendent of this district, located on the Fort Belknap Indian Reservation in central Montana for five years.

Well over one-third of the budget for the maintenance and operation of the district's elementary and high schools is funded necessarily through impact aid. School facilities are a particular concern and need in the district.

I commend Mr. Tallchief to you for the insight he can give you into the effect of impact aid on Indian reservations, and the school construction program. I know of no one who has a more basic grassroots insight into the problems that we face in Montana—and they are great—than Mr. George Tallchief.

STATEMENT OF GEORGE TALLCHIEF, SUPERINTENDENT, HAYS-LODGE POLE SCHOOL DISTRICT

Mr. **Tallchief**. Thank you, Congressman, Mr. Chairman, Committee.

Mr. **Mottl**. You may proceed right away. All your statements will be submitted into the record without objection. You may proceed as you deem fit.

We will start with you, Mr. Tallchief.

Thanks a lot, Ron, for the fine introduction of Mr Tallchief.

[The statement of Mr. Tallchief follows:]

Statement of George Tallchief, Superintendent, Hays-Lodge Pole School District No. 50, Hays, Montana

Honorable Chairman Carl D. Perkins and Members of the Education and Labor Committee:

The federal government has proclaimed its responsibility for providing assistance to schools in federally affected areas. It did so with the passage of the Ammendment to the Lanham Act (1941), which authorized federal aid for construction, maintenance, and operation of schools in federally impacted areas and the 1950 Public Law 81-874 and Public Law 81-815, passed by the 81st Congress.

This commitment must be continued! The extensive federal land holdings in Montana drastically diminish tax bases throughout the state. It is only through redemption of this lost tax revenue that the federal government can fulfill the commitment it proclaimed in these laws. Montana has many isolated small schools which are surrounded by federal lands. The 874 money which has been realized over the years has become the life blood of many of these schools.

There are 4354 impacted districts in the U.S.A.; 411 congressional districts have impacted districts; and 357,000 "A" students, 1,500,000 "B" students and 664,000 low rent housing students benefit from impact aid. It was estimated by the Montana State Department of Education that if the "B" students were not funded in Montana, the actual loss in dollars would be 2 to 2.25 million. This could result in the actual closing of some Montana schools. In Montana the average citizen's tax burden is the heaviest in all the eleven western states. In 1970, he paid a property tax that averaged $69.02 for every $1,000 of personal income. A Montana citizen making $10,000 per year, paid $372 in state income taxes in 1971 compared to the $199.06 average for the eight western states with income taxes. It is also significant to point out that Montana's per capita income is $300 less than the national average and eighth lowest among the eleven western states!

In concert with this individual tax picture are the governmental tax problems created by the existence of vast tracts of federally owned land. It has been estimated, for example, that in the western half of the state approximately 40 percent of the land is federally owned. The federal government owns 29.6 percent of Montana, or some 27,624,634 acres. These severe tax realities combined with the extensive tax exempt federal holdings in Montana mandate that the federal government continue to assist local school districts with 874 and 815 funds.

If the federal government withdraws from the partnership created by Public Laws 874 and 815, educational programs will be curtailed, the hope of equal educational opportunity will be shattered, and more than one school may be forced to close. These gloomy prognostications are based on financial realities: In some Montana school districts one mill raises only a paltry $125. It is federal funds that offset the disadvantaged tax posture of many Montana schools.

Hays and Lodge Pole are small isolated communities located approximately ten miles apart on the southern end of the Fort Belknap Indian Reservation in north-central Montana. The tribes represented on the Fort Belknap Reservation are Assiniboine, Gros Ventres, and Chippewa. Though they are situated near the Little Rockies, the land is primarily prairie. Distances are great. The nearest city of any size is Havre (population 10,558), which is eighty-two miles away; Harlem, a considerably smaller town than Havre (population 1,094), and the site of the nearest high school, is thirty-six miles away.

The economy of the area consists of small cattle ranches and wheat farms. Since few of the ranches are self-supporting, thirty-eight percent of the people also do seasonal work. Some residents work on construction and run small family ranches in addition. Parents and children are the primary work force on these ranches. Ten percent of the residents on the Fort Belknap Reservation work on federal programs on the reservation. As a member of the local Urban/Rural Committee of Hays has said, "Our only local industry is our school."

As the following table clearly illustrates, the curtailment of 874 funds will precipitate an educational disaster in many Montana schools.

Hays/Lodge Pole General Fund Budget
Maintenance and Operation of Schools
1976-77

	General Fund Budget (includes 874 moneys)	Projected 874 Moneys	% 874 Moneys
Elementary	$388,322.53	$124,498.71	32%
High School	$346,492.46	$160,870.88	46%
Total	$734,814.99	$285,369.59	

Honorable Chairman Carl D. Perkins and Members of the Education and Labor Committee:

A cursory look at the history of the white man's educational efforts in America yields an overwhelming impression of continuity of purpose, of methods and of results. The same look at the first Americans - the American Indian - yields an equally overwhelming impression of disruption and interference, a hodgepodge of often abortive attempts to remedy intolerable situations and, perhaps most tragically, a picture of honest, sincerely dedicated people striving to improve their situation in the context of absolutely inadequate facilities, improverished financial conditions, and the ironically reasonable outlook that things just might not get any better.

No one will dispute the fact that continuity is essential to any profitable education - or that effective education is the backbone of community growth. Our history as a nation fully supports those statements. It must, therefore, be considered not only unfortunate, but intolerable as well, that some American communities have not and cannot by themselves provide a continuously effective education for their children. Hays, Montana, is just such a community; while the community has expended every effort toward effective education, a greaty many of their children, because they must board away from home or endure an excessively long bus ride, find the human costs of education past the eighth grade are simply too great - consequently many of them receive little or no high school education. Furthermore, the facilities available for public elementary education are so limited as to make the quality of that basic education borderline.

This situation is made more intolerable by the fact that the solution, in a large part, is simple: the community of Hays needs a new school complex (grades (K-12) to replace an aging and deteriorating elementary school and to supplement it with a new high school for the region.

Four facts are, as a result of a recent study, convincingly evident: first, the community of Hays is suffering under an inadequate educational system; second, the situation cannot be corrected by additions to or updating of present facilities; third, the situation could be resolved by the construction of a new elementary-high school building complex in Hays; and fourth, due to the financial condition of the area, the construction of such a complex is not now or in the foreseeable future an undertaking that the local communities can attempt without assistance.

A more complete summary of the situation would include the following statements:

1. The Hays Elementary School, while having undergone one renovation in the last two decades, is basically an old, deteriorating set of buildings that is too small, supplemented by a collection of temporary mobile classrooms that were never intended to serve an adequate, long-term educational function.
2. The population and enrollment situation in the Hays/Lodge Pole District provides a steady stream of eighth grade graduates. These students need a modern high school in Hays.
3. The students, parents, and school officials in the area, agree that a elementary-high school complex in Hays would vastly improve the educational system in the area by establishing a continuity of educational goals,

methods, and achievements. Thereby the quality of education would be greatly enhanced by the construction of an elementary-high school complex in Hays, Montana.

4, In order to attract and hold qualified teachers and their families, Hays and Lodge Pole must construct faculty residences. There are currently no acceptable buildings available.

FINANCIAL PICTURE

The table below shows the taxable valuation of the Hays/Lodge Pole School District No. 50. It can be readily seen that School District No. 50 cannot build its own elementary-high school complex.

Table I

Taxable Valuation - Hays/Lodge Pole School District No. 50

Year	Total Taxable Vaulation
1968	$ 67,993.00
1969	75,502.00
1970	90,502.00
1971	96,579.00
1972	95,999.00
1973	125,377.00

An interesting fact is that one mill raises only $123.38 in the Hays/Lodge Pole District No. 50. By comparison, a typical self-supporting small school district in Northern Montana, such as Choteau County School District No. 3, Geraldine, Montana, has a taxable valuation such that one mill yields $4,715.00 - a figure 38 times greater than the Hays/Lodge Pole School District No. 50 figure.

PROJECTED ENROLLMENT

Table II

Mission High School Projected Enrollment

Grade	1977-78	1978-79	1979-80
12	2	13	8
11	13	8	10
10	8	10	8
9	10	8	10
Totals	33	39	36

Table III

Hays High School Projected Enrollment

Grade	1977-78	1978-79	1979-80
12	9	21	26
11	21	26	17
10	26	17	19
9	17	19	8
Totals	73	83	70

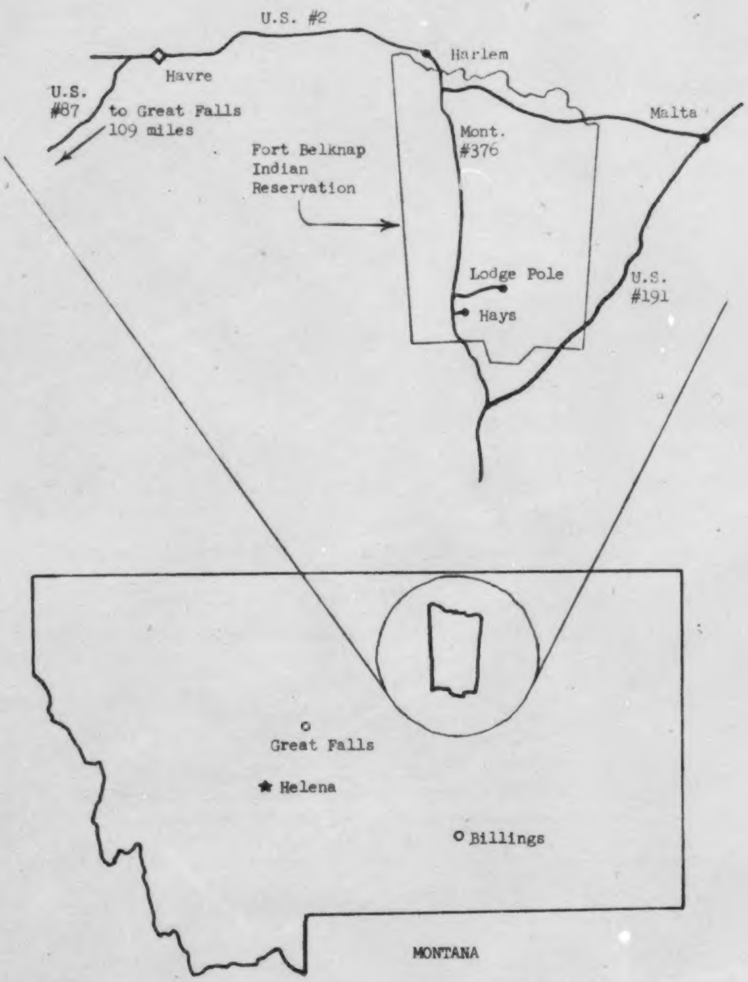
The Mission High School has burned down and is now closed. Hays High School is currently serving the combined population of the two schools.

Table IV

Hays High School Projected Enrollment
(Mission High School Closed)

	1977-78	1978-79	1979-80
Table II Totals	33	39	36
Table III Totals	73	83	70
	106	122	106

GEOGRAPHICAL LOCATION



Section 14

EXHIBIT I

Project No.	Applicant	Priority	Estimated Cost	90 days	120 days	240 days	360 days
				Estimate that project would go to bid if funded, within			
SD 76-C-6002	ISD #3, Harrold	200.0	$ 130,000			X	
WA 77-C-403	Taholah S.D. #77	195.6	2,939,875				X
MT 75-C-5002	Pryor H.S.D. #3	192.7	2,294,471			X	
* MT 75-C-4001	Blaine Co. H.S.D. #50	190.8	1,458,333 –		X		
* MT 75-C-15	Blaine Co. E.S.D. #50	176.3	3,041,660 –		X		
AK 75-C-5001	Galena City S.D. (Equip. only)	167.6	1,000,000				
UT 76-C-2	San Juan County S.D.	148.4	3,042,000				X
UT 76-C-2	San Juan County S.D.	147.0	1,865,000				X
AK 76-C-6001	North Slope Borough	141.8	10,000,000				X
MT 75-C-404	Lodge Grass E.S.D. #27	108.4	3,042,000				X
MT. 75-C-1601	Lodge Grass H.S.D. #2	107.0	1,379,610				X
MT 75-C-5001	Frazer H.S.D. #28	106.6	1,639,539				X
MT 75-C-17	Frazer E.S.D. #2	104.4	472,024				X
MT 76-C-3001	E.S.D. #28, St. Ignatius	102.1	1,139,377				X
MT 75-C-406	E.S.D. #9, Poplar	98.7	3,725,000				X
AZ 73-C-607	Kayenta E.S.D. #27	96.0	2,304,000				X
AZ 76-C-516	Window Rock S.D. #8	88.5	42,631,000				X
WA 76-C-512	Inchelium S.D. #70	88.1(T)	1,750,000				X
WA 77-C-602	Wellpinit S.D. #49	87.2(T)	1,377,450				X
AZ 77-C-1105	Keams Canyon S.D.	86.6(T)	3,500,000				X
NM 73-C-402	Gallup-McKinley County	85.8	910,000				X
NM 77-C-402	Gallup-McKinley County	84.0	10,300,000				X
AZ 76-C-1001	Apache Co. S.D. #19, Ganado	82.4	6,890,000				X

NOTE: Exhibit I shows priorities established by the Department of Health, Education, and Welfare. They were submitted to Senator Lee Metcalf by William L. Stormer, Director, School Assistance in Federally Affected Areas. Significantly, the Blaine County High School and Elementary District No. 50 (Hays) received exceedingly high priorities in terms of the 200 being top.

EXHIBIT II

Hays/Lodge Pole School District No. 50 was given a priority index of 164, the fourth highest in the nation. It is interesting to note that the study has recognized Hays/Lodge Pole as having building needs of greater urgency than 158 other Indian schools throughout the nation.[1]

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[1] Bureau of Indian Affairs, Contract No. 14-20-0150-1122, Public School Survey of Construction Aid Needs Related to the Education of Reservation Indian Children, (National Indian Training and Research Center, Tempe, Arizona), 1973, p. 24-25.

Mr. TALLCHIEF. Thank you.

The Federal Government has proclaimed its responsibility for providing assistance to schools in Federally affected areas. It did so with the passage of the amendment to the Lanham Act (1941), which authorized Federal aid for construction, maintenance, and operation of schools in Federally impacted areas and the 1950 Public Law 81-874 and Public Law 81-815, passed by the 81st Congress.

This commitment must be continued. The extensive Federal land holdings in Montana drastically diminish tax bases throughout the state. It is only through redemption of this lost tax revenue that the Federal Government can fulfill the commitment it proclaimed in these laws.

Montana has many isolated small schools which are surrounded by Federal lands. The 874 money which has been realized over the years has become the life blood of many of these schools.

There are 4,354 impacted districts in the USA; 411 congressional districts have impacted districts; and 357,000 "A" students, 1,500,000 "B" students and 664,000 low rent housing students benefit from impact aid. It was estimated by the Montana State Department of Education that if the B students were not funded in Montana, the actual loss in dollars would be $2 to $2.25 million. This could result in the actual closing of some Montana schools.

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In concert with this individual tax picture are the governmental tax problems created by the existence of vast tracts of Federally owned land. It has been estimated, for example, that in the western half of the state approximately 40 percent of the land is Federally owned.

The Federal Government owns 29.6 percent of Montana, or some 27,624,634 acres. These severe tax realities combined with the extensive tax exempt Federal holdings in Montana mandate that the Federal Government continue to assist local school districts with 874 and 815 funds.

If the Federal Government withdraws from the partnership created by Public Laws 874 and 815, educational programs will be curtailed, the hope of equal educational opportunity will be shattered, and more than one school may be forced to close.

These gloomy prognostications are based on financial realities: In some Montana school districts one mill raises only a paltry $125. It is Federal funds that offset the disadvantaged tax posture of many Montana schools.

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Distances are great. The nearest city of any size is Havre, population 10,558, which is 82 miles away; Harlem, a considerably smaller town than Havre, population 1,094, and the site of the nearest high school, is 36 miles away.

The economy of the area consists of small cattle ranches and wheat farms. To talk a little bit about our general funds, in elementary, for example, in our district—and this is why we are concerned about 874—our total budget in the elementary is $388,322.53. Of this impacted aid pays $124,498.71, which is 32 percent of our total budget.

In the high school, we have a budget of $346,492.46. Of this impacted aid pays $160,780.88, which is 46 percent of our total budget.

Now, to speak a little bit in regards to 815; that is, school construction. We are under Section 14 of the 815 law.

For the last five years we have attempted to secure money for the construction of a high school building. We took the elementary students out of the existing elementary building, which was condemned ten years ago. We were in this building. It is very inadequate.

We moved the elementary students into trailer houses, and these were secured second or third hand. We got them from Grand Isle. They had been used there quite a while. Then we got some from Rapid City, during the flood. This is where we are housing our students. It is really inadequate. The roofs are leaking. We can see today we are going to have to go in and reroof them some way, to keep themn from leaking and destroying everything we have.

It is not very conducive to education because of the inadequacy of them. We are glad to have them because we have to house our students. But we are in hopes, and we have been funded to an extent, with 815 monies, with the high school construction.

We have a complex of elementary and high school on the drawing board at the present time. We hope it will be funded in the next appropriation.

It is a strange thing. Since 1969, on the drawing board and on the records, there are 7 Indian schools in the United States waiting to be funded. There were 5 in 1971, 8 in 1972, 3 in 1973, 10 in 1974, 4 in 1975, 3 in 1976, and 15 in 1977. Now, if these were to be funded, all of these Indian schools, which all of them are needed, it would take about $267,044,219 to fund all of these.

Prior to 1968, there was adequate funding for school construction. But after 1968, the money was cut down to around $10 million a year. Most of this mooney has been going to disaster situations, and not very much of it coming down to school construction in the needed areas. We are not saying disaster areas do not need it, but we are down to these areas now.

We have been in the high school district now for the last three years. This is affecting our youngsters particularly because we cannot offer a very large variety of courses. We are stressing primarily the basics—reading, writing arithmetic. But we would like to offer more, which would help us to retain some of our students from dropping out of school.

We have quite a dropout factor because we cannot offer vocational type courses, which we would like to. I feel personally that if a child can see the advantages of what our basics are doing, they are more apt to stay and work harder to accomplish this.

When I took Latin, I could see no basic value in it, except that I learned what tue amo usted meant because I had a beautiful teacher. But this is the way they are. They cannot see the really basic value of it unless we show them what amount of strain it would take on a fender if you were going to bend it, or how to measure out a board, and how we were going to use it in construction.

Then they can see the value of it, but to take any child and put him in a class and say here are the basics, here is what we are going to teach you, that is great, but we have to see some value in it.

I am going to appeal for two factors, 874 and 815. I could paint a more gloomy picture had I brought pictures with me showing a building condemned ten years ago, where when we walk in the basement we never know whether the students are going to fall through, and we look to see if the building is going to fall in.

If a fire were to start, it would really be a disaster, not only in the building but more so in trailer houses. As you know, trailer houses are constructed so they are just like a tinder box.

I would like to thank you for the opportunity of appearing before the committee.

Mr. **MOTTL**. Yes, we certainly appreciate your testimony, Superintendent Tallchief.

Congressman Marlenee?

Mr. **MARLENEE**. I would like to add a couple of words here, if I may.

Mr. Tallchief spoke of the 27 some million acres. I would like to point out to the committee that this is more land than perhaps several of the states have, the smaller states in the United States. There is no property in many of these areas, as he stated, to which to attach a property tax. That is how our schools are funded in Montana, through property tax. If they were not, there is very little income in many of these areas, such as on reservations, to take care of adequate funding of construction.

In visiting with Mr. Tallchief, he has outlined some of the programs that he would like to institute. It is virtually impossible with the present structures, and the type of schools that they have. You cannot properly instruct high school children in trailer houses. He feels, with some degree of certainty, that he could double on the reservations the enrollment and hold that enrollment through graduation, if they did have the proper facilities.

Thank you, Mr. Chairman. I commend you, Mr. Tallchief, on your testimony.

Mr. **TALLCHIEF**. Thank you.

Mr. **MOTTL**. We certainly appreciate your testimony, Congressman, and also that of your fine superintendent. If Superintendent Tallchief will remain for questions, we will let the other panelists first give their statements before we get to questions.

Next we would like to introduce as a panelist Dr. Jack Swicegood, Superintendent for Gallup-McKinley County Public Schools, Gallup, New Mexico.

Dr. Swicegood?

[The statement of Dr. Swicegood follows:]

GALLUP-McKINLEY COUNTY PUBLIC SCHOOLS
GALLUP, NEW MEXICO 87301

JACK SWICEGOOD, Superintendent
OFFICE OF THE SUPERINTENDENT

700 SOUTH BOARDMAN DRIVE
P. O. BOX 1318
Tele. (505) 722-3891

MEMORANDUM

DATE: June 20, 1977

TO : Subcommittee on Elementary, Secondary, and Vocational Education

FROM: Dr. Jack Swicegood, Superintendent

RE : Testimony on Public Law 874; Public Law 815

General

The Gallup-McKinley County Public Schools is the largest in land area size (5700 sq. mi.) in the Continental United States. It also enrolls the largest Indian student body, 9,117 Indian students of a total of 13,225 students (69%) (Oct. 29, 1975).

The tax valuation is approximately $89 million or $6,730 per student, whereas the state average is more than $13,000 per student. The school attendance centers are scattered over the area in an attempt to provide schools close to centers of population. Distance from Gallup to attendance centers vary, 60 miles to Crownpoint to the northeast, 45 miles to Navajo to the northwest, Ramah 45 miles to the southeast, and 45 miles to Zuni to the southwest. Schools are located at various sites between these extremes and Gallup. There are a total of 29 attendance centers in the district. The district includes parts of two Indian Reservations, Navajo and Zuni.

The United States Government under treaty obligations began the education of Indian children in government schools. However, as the numbers of children increased, the total costs rose and parents began resenting the methods used in government schools. There was a movement from federal and private schools to public schools. There was also a concomitant shift in federal posture, i.e., the education of all children became the responsibility of the state. There was not an attendant shift in federal posture on funding, although taxation on Indian lands remained outside the jurisdiction of the state.

Public Law 874

Beginning with the school year 1970-71 and at a progressively increased rate, the State of New Mexico took into account Public Law 874 funds in appropriating funds for the operation of schools. This procedure was finalized in 1974 for the school year 1974-75 in that the state took credit against the calculated program cost for the district for 95% of Public Law 874 funds. This "equalization" procedure has had a very adverse effect upon the potential for supplying educational opportunity for all pupils enrolled in this district. This has adversely affected the educational opportunities available to all children and youth in the district including the 9,000 Indian children enrolled. The opportunities available for the 13,000 children and youth in the future are thereby decreased.

The state has "equalized" educational costs by school student body size in general. Consequently, there is really no resource to care for the special needs of Indian education which are not average for the state. Thus, the only resource available for meeting the non-average needs of Indian children is federal funding for categorical supplemental and compensatory type programs. Supplemental funds are earmarked for special programs and may not be used to add to basic program costs. If basic program costs are supplemented with special program funds, supplanting occurs. Consequently, time constraints and compartmentalization of students' learning occurs.

While Public Law 874 funds remained in the district, these funds allowed the district to bear these additional costs. With state equalization, the district has no resources to pay for above average programs.

In summary on this one point, the district is meeting only the state-average educational needs of pupils and not the special needs of some 9,000 Indian youngsters. The district should be permitted to receive an equal per capita share of state funds and in addition thereto, keep 100% of Public Law 874 funds.

There is still another problem with the disbursement of P.L. 874 funds. One of our school attendance areas is located approximately sixty (60) miles from Gallup and is contiguous with the Window Rock, Arizona public schools. Since we have no high school in this attendance area, we had hoped to send our high school students to Window Rock, paying that school district the New Mexico out-of-state tuition fee, plus a per capita share of P.L. 874 funds for our students being educated in that school system. The only other alternative is to bus these students one hundred twenty (120) miles each day.

The two school districts and the Chief of Public School Finance for New Mexico agreed to this equitable financial solution. To our dismay, we have been informed that P.L. 874 funding cannot follow the children based on the audited claim for reimbursement by the Window Rock District. Of the two alternatives discussed, one was unacceptable because of a conflict with State law, and the other was rejected by SAFA because it would create complicated procedures.

As a result of this problem, there is a delegation from the Navajo Tribe and the two school districts in Washington, D.C., to see if some agreement could be reached, thus avoiding the long bus routes over roads that can be quite hazardous in the winter.

Public Law 815

Public Law 815 has granted about $10.8 million for a high school building and teacherages at Tohatchi and $1.8 million initial grant for Thoreau High School. (Thoreau will probably approach $7 million). This is the first Public Law 815 funds the district has received since 1965. The district has remained bonded to almost capacity.

In this district, the failure of Public Law 815 to provide facilities to house students who have and are in process of entering public schools, coupled with a very low per capita tax valuation and bonding capacity has forced the district to use many portable buildings. In most of the rural schools (predominantly Indian students) where the largest amount of growth has occurred in the past 10 years, there are more portable classrooms in use than permanent classrooms. This adversely affects the educational opportunity of Indian students. The state has supplied some facility funds (approximately $300,000) but due to the reservation sovereignty question, it has been a difficult fiscal-political problem to secure any assistance from the state.

The impacted area schools in New Mexico are in dire need for increased funding through Public Law 815 funds. Last summer, the school districts of Central Consolidated, Tularosa, Los Lunas, Magdalena, Dulce, and Gallup-McKinley County responded to a questionnaire on the estimated costs of permanent construction needed to provide adequate facilities. Please keep in mind that these represent only six of nineteen eligible districts in the State of New Mexico.

Considering only these responses, it is estimated that $56,856,900 is needed for permanent construction to provide adequate facilities. The Gallup-McKinley County School District alone has a conservative estimate of $45,881,900! When comparing these figures with the funding level, the gross inadequacy of Public Law 815 funding becomes obvious.

Another example illustrating the plight of individual school districts can be shown in the case of the Gallup-McKinley County School District. A federal court judge in the Natonabah, et. al. vs. the Gallup-McKinley County Board of Education ruled that the school district must provide equal facilities for the Indian reservation areas as is provided for the public land city schools. Due to the large land areas in the district which are non-taxable, it is a fiscal impossibility to meet such a demand. In summary, this particular school district was ordered by a federal court to provide equal facilities with inadequate federal, state, and local funds to accomplish the court order!

In summary, I earnestly and respectfully solicit your help with current and future Public Law 815 legislation.

Dr. Jack Swicegood
Superintendent of Schools
Gallup-McKinley County Public Schools
Gallup, New Mexico

STATEMENT OF JACK SWICEGOOD, SUPERINTENDENT, GALLUP-MCKINLEY COUNTY PUBLIC SCHOOLS

Dr. Swicegood. Thank you, Mr. Chairman, committee members. I do appreciate the opportunity to be here this morning to discuss 874-815. The Gallup-McKinley County public school system is the largest school system in land area size in the continental United States. It also enrolls the largest Indian population.

The school attendance centers are scattered over the area in an attempt to provide schools close to centers of population. The distances from Gallup to attendance centers vary: 60 miles to the northeast; 45 miles to the northwest; 45 miles to the southeast; 45 miles to the southwest.

These schools are located at various sites between these extremes and the City of Gallup itself. The district also includes parts of two Indian reservations, the Navajo and the Zuni reservations.

The United States Government, under treaty obligations, began the education of Indian children in government schools. There has, however, been a movement from the Federal and private schools to the public schools. There was not an attendant shift in Federal posture on funding, although taxation on Indian lands remained outside the jurisdiction of the state.

I would like to address myself now in particular to 874 funding.

Beginning with the school year 1970 to 1971 and at a progressively increased rate, the State of New Mexico took into account Public Law 874 funds in appropriating funds for the operation of schools. This procedure was finalized in 1974 for the school year 1974 to 1975 in that the state took credit against the calculated program cost for the district for 95 percent of the Public Law 874 funds.

This equalization procedure in New Mexico has worked adversely in terms of the education of Indian children. The state has equalized educational costs by school student body size in general, and consequently there is really no resource to care for the special needs of Indian education which are not average for the state.

Thus, the only resource available for meeting the nonaverage needs of Indian children is Federal funding, for categorical, supplemental and compensatory type programs. Supplemental funds are earmarked for special programs and may not be used for basic program costs.

Now, while public law 874 funds remained in the district, these funds allowed the district to bear the additional costs. With state equalization, the district has no resources to pay for the above average cost.

In summary on this one point, the district is meeting only the state average educational needs of students and not the spcial needs of some 9,000 Indian youngsters. The district should be permitted to receive an equal per capita share of state funds and in addition they are to keep 100 percent of the 874 funds.

Now, lest there be a misunderstanding on the part of anyone, I would also like to point out that the equalization formula for the State of New Mexico works very well for the vast majority of the school districts. It is not that I am unalterably opposed to equalization formulas, but in this particular school district, in this particular setting, the credit taking of 874 funds has in effect negated the efforts of the school district in meeting the extra needs of the Indian child.

There is still another problem with 874 funds. One of our school attendance areas is located approximately 60 miles from Gallup and is contiguous with the Window Rock, Arizona school district. Since we have no high school in this attendance area, we had hoped to send our high school students to Window Rock, paying that school district the New Mexico out of state tuition fee, plus a per capita share of Public Law 874 funds for those students who are being educated in Arizona, in that particular school district.

The only other alternative to this is to bus these students 120 miles a day over roads that can be quite hazardous in the wintertime.

Now, the two school districts and the chief of public school finance for the State of New Mexico agreed to this equitable financial solution. To our dismay, we were then informed that P.L. 874 funding cannot follow the children based on the audited claim for reimbursement by the Window Rock school district.

As a result of this problem, there is a delegation in Washington, D.C. at this time from the Navajo tribe to see if some agreement could be reached thus avoiding these long bus routes for the Indian students over roads that, again, can be quite hazardous.

I would now like to talk to you about Public Law 815.

P.L. 815 has granted approximately $10.8 million for a high school building and teacherages at Tohatchi, New Mexico, and $1.8 million initial grant for Thoreau High School. This is the first P.L. 815 fund the district has received since 1965. The district has remained bonded almost to capacity.

Now, in this district, the failure of P.L. 815 to provide facilities to house students who have and are in the process of entering public schools, coupled with a very low per capita tax valuation and bonding capacity has forced the district to use many portable buildings. In most of the rural schools, which are predominantly Indian student population, there are more portable classrooms in use than there are permanent classrooms.

The impacted area schools in New Mexico are in dire need for increased funding through Public Law 815 funds. The Gallup-McKinley County school district alone has a consevative estimate of $45 million needed for permanent construction.

Now, when comparing these figures with the funding level at the national level, the gross inadequacy of P.L. 815 funding becomes obvious.

Another example illustrating the plight of individual school districts can be shown in the case of the Gallup-McKinley County school district. A Federal court judge in the Natonabah versus Gallup-McKinley County ruled that the school district must provide equal facilities for the Indian reservation areas as is provided for the public land city schools.

Due to the large land areas in the district which are nontaxable, it is a fiscal impossibility to meet such a demand. In summary, this particular school district was ordered by a Federal court to provide equal facilities with inadequate Federal, state and local funds to accomplish the court order.

In summary on this point, I earnestly and respectfully solicit your help with current and future P.L. 815 funding.

Thank you very much.

Mr. **Heftel**. Thank you very much.

Please accept my apologies for leaving the hearing, but Dr. Fish and I were trying to discuss something connected with impact aid. This was a good opportunity to do so.

My esteemed colleague, Mr. Buchanan, would like to introduce our next speaker, who I think he knows better than I.

Mr. **Buchanan**. Thank you, Mr. Chairman.

I simply want to say that in our State of Alabama we feel we have some of the most distinguished educators in the country, and one of them is with us today, Thomas A. Bobo, who is the Assistant Superintendent of the Montgomery Public Schools. We are very proud of his leadership and his work, and we will hear him with interest.

STATEMENT OF THOMAS A. BOBO, ASSISTANT SUPERINTENDENT, MONTGOMERY PUBLIC SCHOOLS, MONTGOMERY, ALABAMA

Mr. **Bobo**. Thank you, Congressman. I brought testimony from the Superintendent of the Birmingham system, Dr. Cody, and I talked with Dr. Sparks about this, Public Law 874, and the public housing section of this. I yesterday dropped this by your office. I read that and thought he did an excellent job in preparing the testimony on this.

I have a prepared statement here. I would like to summarize some of this statement concerning the public housing portion of this.

[The statement of Mr. Bobo follows:]

UNITED STATES HOUSE OF REPRESENTATIVES

Subcommittee

Elementary, Secondary and Vocational
Education

28 June 1977

Statement of

Thomas A. Bobo
Assistant Superintendent

Montgomery Public Schools
P. O. Box 1991
Montgomery, Alabama 36103

PL 81-874--Low-Rent Public Housing

Mr. Chairman:

I appreciate the opportunity to speak to you today on PL 81-874 Low-Rent Public Housing. For some time, the Montgomery Public School System has anticipated Federal assistance for children who are enrolled in the public schools and live in public housing. This assistance became a reality for the school year 1975-76. It seemed that much confusion existed as to the Public Housing portion of the law and how it would be administered.

According to the interpretation of the existing Public Housing regulations, the State Department of Education must approve the method of expenditure for PL 874 Public Housing funds. This is true in most cases; and in our situation, it requires an approved application. Enclosed is a copy of the application which the Montgomery Public School System must complete and send to the State Education Agency for approval. The State Education Agency must notify the Office of Education that the method of expending the PL 874 Public Housing funds for this local school system has been approved by the State Department of Education.

The regulation in the Federal Register dated December 5, 1975 states:

G. Low-rent public housing. Proposed section 115.29 sets forth requirements to ensure that payments under Pub. L. 81-874 based on the number of children residing on, or residing with a parent employed on, low-rent public housing, as determined under section 5(e) of such Act, are used for special programs and projects designed to meet the special educational needs of educationally deprived children from low income families, as required under such section.

It is the recommendation of the Montgomery Public School System that PL 874 Low-Rent Public Housing funds be approved in the same manner as other PL 874 funds. If this is not possible, it is the suggestion that Public Housing funds be administered from the Office of Education in the same manner as special education.

The handicapped section of PL 874 is working; and it would be most helpful if the Public Housing portion could function according to the same regulations.

The Montgomery Public School System is most appreciative of low-rent public housing funds. Since we have in excess of 3,000 low-rent public housing students, these funds are sorely needed by the Montgomery Public Schools. It is the urgent desire of this system for these students to be funded at a higher level, perhaps as B Civilians, which is 57% in Tier I and II. It is the further recommendation of this school system and our Alabama State Department of Education that the State Department be eliminated from the approval and supervision of the local public school low-rent housing program.

Mr. Chairman, I thank you and the members of this committee for your interest in and understanding of the educational needs of this nation. I appreciate the opportunity of presenting these views to you.

Thomas A. Bobo
Assistant Superintendent
Special Services

STATE OF ALABAMA
DEPARTMENT OF EDUCATION
P.L. 81-874 Impact Aid
Low Rent Housing Entitlement

AMOUNT REQUESTED:__________________ FY _____

Approved:____________________________
State Superintendent of Edu.

LEA ____________________________

Date of Approval:____________________

Signed ____________________________
Superintendent of LEA

Date Signed: ____________________________

The LEA assures:

A. Yes _____ No _____ The Public Law 81-874 Impact Aid, Low Rent Housing Entitlements program is designed to meet the special educational needs of educationally deprived children from low-income families. 115.29(b)

B. Yes _____ No _____ This proposal complies with the assurance check sheets which appear in the Title I application, Section III (if applicable) with respect to P.L. 81-874 Impact Aid, Low Rent Housing Entitlements regulations:

Complete by checking ( ) or insert N.A.

_____ Program Design

_____ Parent Advisory Councils

_____ Staff Development

_____ General Assurances

_____ Construction

_____ Dissemination/public information

_____ Other (Specify)

Effective July 20, 1976

SECTION I - STATISTICAL INFORMATION P.L. 81-874

SUPPLEMENT TO THE P.L. 81-874 SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS
INFORMATION NEEDED PRIOR TO PAYMENT OF LOW-RENT HOUSING ENTITLEMENT

Legal name and location of school district (City and State)

FY of Application ________ Application No. Assigned by OE ____________________

I. PROGRAM PRIORITIES

Payments received under this application and attributable to children from low-rent housing will be expended, as indicated, in the following order of priority:

☐ A.1. To continue and to augment programs assisted under Title I of the Elementary and Secondary Education Act of 1965 which would otherwise be eliminated or diminished due to the adoption of the new formula for distribution of assistance under such title adopted by P.L. 93-380; or

☐ 2. To provide Title I type programs in areas which are eligible for Title I assistance but which have not received such assistance; or

Programs specified in the preceding subparagraph are fully provided, therefore funds will be used

☐ B.1. To supplement existing Title I programs; or

☐ 2. To provide Title I type programs in other area of such agency for educationally deprived children.

II. ASSURANCES AND CERTIFICATIONS

A. Local District Assurance and Certification

I certify that the program requested is a Title I or Title I type program and that funds provided therefore will be used and accounted for in accordance with regulations prescribed for P.L. 81-874. Recommend Approval:

P.L. 81-874 Auth. Rep. for District ____________________

Signature of Auth. Rep. for District ____________________

Date Signed ____________________

B. State Approval and Certification

1. Approval is granted and the approved program proposal is retained in the appropriate SEA files.

Name and Title ESEA Title I Official ____________________

Signature ESEA Title I Official ____________________

Date Signed ____________________

2. Name and Title SAFA Auth. Rep. (SEA) ____________________

Signature of SAFA Auth. Rep. (SEA) ____________________

Date Signed ____________________

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P.L. 81-874

III-A

ATTENDANCE AREAS AND NUMBER OF CHILDREN EXPECTED TO PARTICIPATE AT SCHOOLS WHERE P.L. 81-874 (TITLE I ACTIVITIES) WILL BE LOCATED

☐Regular ☐Summer School

NAME OF PARTICIPATING PUBLIC SCHOOLS	GRADE SPAN	TOTAL NUMBER OF CHILDREN ENROLLED IN EACH SCHOOL LISTED IN COL. (1)	ESTIMATED NO. OF CHILDREN WHO WILL PARTICIPATE IN ACTIVITIES AT SCHOOLS LISTED IN COL. (1)		
			FROM PUBLIC SCHOOLS	FROM PRIVATE SCHOOLS	TOTAL OF COLS. 4&5
(1)	(2)	(3)	(4)	(5)	(6)
	TOTAL				

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III-B PRIVATE SCHOOLS SERVING CHILDREN IN ATTENDANCE AREAS WHERE P.L. 81-874 (TITLE I ACTIVITIES) WILL BE LOCATED ☐ Regular ☐ Summer School

NAME OF PARTICIPATING PRIVATE SCHOOLS (1)	GRADE SPAN (2)	TOTAL NUMBER OF CHILDREN ENROLLED IN EACH SCHOOL LISTED IN COLUMN (1) (3)	ESTIMATED NO. OF CHILDREN, WHO WILL PARTICIPATE IN ACTIVITIES AT SCHOOLS LISTED IN COLUMN (1) (4)
	TOTAL		

IV A ESTIMATED NUMBER OF PARTICIPATING CHILDREN BY GRADE LEVEL AND TYPE OF SCHOOL

GRADE LEVEL (1)	NUMBER ENROLLED IN PUBLIC SCHOOLS (2)	NUMBER ENROLLED IN PRIVATE SCHOOLS (3)	TOTAL (Col. 2 + 3) (4)
Kindergarten			
Grade 1			
Grade 2			
Grade 3			
Grade 4			
Grade 5			
Grade 6			
Grade 7			
Grade 8			
Grade 9			
Grade 10			
Grade 11			
Grade 12			
TOTAL			
B ESTIMATED NO. OF DROPOUTS RECORDED UNDER ITEM 29 WHO ARE INCLUDED IN ITEM 12A ABOVE			

C ESTIMATED NUMBER OF HANDICAPPED CHILDREN, INCLUDED IN ITEM 12A, WHO WILL PARTICIPATE IN ACTIVITIES DESIGNED SPECIFICALLY FOR HANDICAPPED CHILDREN *(Report each child once by major handicap).*

MENTALLY RETARDED	HARD OF HEARING	DEAF	SPEECH IMPAIRED	VISUALLY HANDICAPPED	SERIOUSLY EMOTIONALLY DISTURBED	CRIPPLED	OTHER HEALTH IMPAIRED	TOTAL

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SCHOOL TERM ( ) REGULAR ( ) SUMMER [illegible]

V. BUDGET

	EXPENDITURE ACCOUNTS (See OE Handbook II)	ACCOUNT NUMBER	SALARIES	CONTRACTED SERVICES	OTHER EXPENSES	ESTIMATED TOTAL AMOUNT
	(1)	(2)	(3)	(4)	(5)	(6)
1	Administration	100				
2	Instruction	200				
3	Attendance Services	300				
4	Health Services	400				
5	Pupil Transportation	500				
6	Operation of Plant	600				
7	Maintenance of Plant	700				
8	Fixed Charges	800				
9	Food Services	900				
10	Student Body Activities	1000				
11	Community Services	1100				
11a	Indirect Cost					
12	(Sum of lines 1 - 11a) SUB-TOTAL					
13	Sites	1210				
14	Buildings	1220 A AND B				
15	Remodeling	1220 C				
16	Equipment for Instruction	1230 C				
17	All Other Equipment	1230 Except C				
18	(Sum of lines 13 thru 17, Col. 6) SUB-TOTAL					
19	TOTAL PROJECT BUDGET (Sum of lines 12 and 18) GRAND TOTAL					

VI PROJECT STAFF

	STAFF ACTIVITIES (See OE Handbook IV Staff Accounting)		STAFF ASSIGNMENTS AND ESTIMATED SALARIES INCLUDED IN TITLE I BUDGET				
	CLASSIFICATION OF ASSIGNMENTS	CLASS NO 2230	ESTIMATED NUMBER FOR REGULAR TERM		ESTIMATED NUMBER FOR SUMMER TERM		TOTAL SALARIES
			TOTAL	FTE	TOTAL	FTE	
	(1)		(2)	(3)	(4)	(5)	(6)
2	Teaching Kindergarten	01					
3	Teaching Elementary	01					
4	Teaching Secondary	01					
5	Teaching Handi. Children Only	01					
6	Teacher Aide	02					
7	Librarian	03					
8	Librarian Aide	—					
9	Supervision	04					
10	Direction and Manage. (Admin.)	07					
11	Counseling	15					
12	Psychologist	16					
13	Testing	17					
14	Social Work	18					
15	Attendance	19					
16	Nurse	20					
17	Physician	21					
18	Dentist	22					
19	Dental Hygienist	23					
20	Clerical	10					
21	Other (Specify Assignment and No.)						
21	Other (Specify Assignment and No.)						
22	TOTAL NO. OF ASSIGN., FTE, AND SALARIES (Sum of lines 2 thru 21)						

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VII. INSTRUCTIONAL ACTIVITIES AND RELATED SUPPORTIVE SERVICE TO BE FUNDED UNDER P.L. 81-874 (TITLE I) NO. OF CHILDREN AND ESTIMATED COST.

CHECK ONE TO IDENTIFY THE SCHOOL TERM BEING REPORTED ON: ☐ Regular ☐ Summer School

A. INSTRUCTIONAL ACTIVITIES

INSTRUCTIONAL ACTIVITIES	ESTIMATED NO. OF CHILDREN WHO WILL PARTICIPATE IN INSTRUCTIONAL ACTIVITIES LISTED IN COL. (1)						ESTIMATED COST OF EACH INST ACTIVITY (ROUNDED TO NEAREST DOLLAR) *(See Instructions)*
	PUBLIC SCHOOL CHILDREN		PRIVATE SCHOOL CHILDREN		TOTAL (SUM OF COLS. 2 THRU 5)	NO. IN COL. 6 FROM INSTITUTIONS FOR NEG. OR DEL. CHILDREN	
	GRS. 1-6	GRS. 7-12	GRS. 1-6	GRS. 7-12			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1 Kindergarten							
2 Reading	[redacted]	[redacted]	[redacted]	[redacted]			
3 Mathematics							
4 Other (Specify)							
5 Speech Therapy							
6 Special Act. for Handicapped							
7 Other (Specify)							
8 Other (Specify)							
9 Other (Specify)							
10 Other (Specify)							
11 Other (Specify)							
12 Other (Specify)							
20 TOTAL ESTIMATED COST FOR INSTRUCTIONAL ACTIVITIES (SUM OF LINES 13A - 1 THRU 12)							

B. SUPPORTIVE SERVICES

SUPPORTIVE SERVICES	ESTIMATED NUMBER OF CHILDREN WHO WILL PARTICIPATE IN SERVICES							ESTIMATED COST OF EACH SERVICE ACTIVITY (ROUNDED TO NEAREST DOLLAR)
	KIND (PUB & PRI.)	PUBLIC SCHOOL CHILDREN		PRIVATE SCHOOL CHILDREN		TOTAL (SUM OF COLS. 2 THRU 6)	NO. IN COL. 7 FROM INSTITUTIONS FOR NEG. OR DEL. CHILDREN	
		GRS. 1-6	GRS. 7-12	GRS. 1-6	GRS. 7-12			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1 Attendance								
2 Clothing								
3 Food								
4 Guidance Counseling								
5 Teacher Aides								
6 Health Medical/Dental								
7 Library								
8 Psychological								
9 Social Work								
10 Speech Therapy								
11 Transportation								
12 Special Services for Handicapped								
13 Other Services (Specify)								
14 TOTAL ESTIMATED COST FOR SERVICE ACTIVITIES (SUM OF LINES 13B - 1 THRU 13)								

C	1 ESTIMATED COST OF IN SERVICE EDUCATION	
	2 TRAVEL FOR INSTRUCTIONAL PERSONNEL	
	3 TESTING, EVALUATION, AND DISSEMINATION (BUDGETED IN 200 OTHER)	
	4 TOTAL (SUM OF LINES 13C - 1 THRU 3)	
D	TOTAL ESTIMATED COST OF TITLE I SERVICES FOR PARENTS	
E	TOTAL ESTIMATED COST FOR ALL INSTRUCTIONAL AND SERVICE ACTIVITIES (SUM OF A-20, B-14, C-4 & D)	

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PROPOSED EQUIPMENT LIST

P. L. 81-874 (TITLE I)

Item	No. of Items	Cost Per Item	Total Cost	Proposed Location	Describe the Need	Describe Utilization

Section II Program Information ☐ Regular or ☐ Summer School

I. Identification of Instructional Activities and Diagnostic Instruments

A. Instructional Activities - Kindergarten

(1)	(2)	(3)
Instructional Activities (Check)	Grade Level, Span or Age Group	List Diagnostic Instrument
Kindergarten ( )	K	

B. Instructional Activities - General

(1)	(2)	(3)
Instructional Activities (Check)	Grade Level, Span or Age Group	List Diagnostic Instrument Per Grade, Span or Age Group
a. Reading ( )		
b. Mathematics ( )		
c. Other ( ) Specify		

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I. Identification of Instructional Activities and Diagnostic Instruments (Cont'd.)

C. Instructional Activity - Handicapped

(1) Instructional Activities (Check)	(2) Grade Level, Span or Age Group	(3) List Diagnostic Instrument Per Grade, Span or Age Group (If not applicable specify method utilized)
a. Speech Therapy ( ) Specify		
b. Special Activities for Handicapped ( ) Specify		
c. Other ( ) Specify		
d. Other ( ) Specify		

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II. Dates for the Instructional Program

(Check)
A. ( ) Regular Program:
1. Beginning ____________ Closing ____________

B. ( ) Summer Program:
1. Beginning ____________ Closing ____________
2. Activity hours ____________ to ____________

III. Criteria for Selection of Participants

A. Instructional Activity - Kindergarten: Yes _____ NA _____ (if yes, complete a, b and c below:)

1. Requirement:
    - a. Children reside in an eligible attendance area. Yes _____. N.A. _____
    - b. Children will be 5 years old on or before October 2, and eligible to enter first grade next year. Yes _____.

2. Screening:
    - a. Written recommendations from: Headstart. Yes _____ NA _____. Commercial kindergarten. Yes _____ NA _____, or other kindergartens. Yes _____ NA _____.

3. Selection:
    - a. Children will be tested utilizing (name of instrument) ____________________, and
    - b. Children scoring at or below __________ %ile, or __________ stanine, or (other score) ____________________ will be eligible to participate.

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III. Criteria for Selection of Participants (Cont'd)

B. Instructional Activities - General

(1) Instructional Activities (Check)	(2) Grade Level, Span, or Age Group	(3) Instrument (test) Utilized	(4) Participants Selection Level (Cut off)
a. Reading ( )			
b. Mathematics ( )			
c. Others ( ) Specify			

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III. Criteria for Selection of Participants (Cont'd)

C. Instructional Activities - Handicapped

(1) Instructional Activities (Check)	(2) Grade Level, Span, or Age Group	(3) Instrument (test) Utilized (If not applicable specify method utilized)	(4) Participants Selection Level (Cut off) (If not applicable, spec
a. Speech Therapy ( )			
b. Special Activities for Handicapped ( ) Specify			
c. Other ( ) Specify			
d. Other ( ) Specify			

IV. Instructional Activity Assurances

A. Will a documented individualized prescription be prepared for each pupil based on the diagnostic process? Yes ____ No ____.

B. Will individual file folders be maintained on each pupil containing his diagnostic and prescriptive data with progress reports on identified skill areas? Yes ____ No ____.

C. Will each instructional activity in the program be structured differently than similar instructional activities in the regular school program? Yes ____ No ____.

D. Give justification and explanation if 1, 2, or 3 is marked No.

V. Instructional Activity Objectives

Write an objective for each instructional activity indicating the progress expected. Separate objectives should be written for preschool activities and separate objectives for first grade activities. Objectives for activities in the other grades or groups of grades may be separate or combined. (Please do not include the instructional objectives teachers are expected to have for the various skills to be taught.)

VI. Summary Description of Teacher Assignment ☐ Regular or ☐ Summer School P.L. 81-874

Use the following form to present a summary breakdown of the entire P. L. 81-874 (Title I) academic program. Information should be provided by school for each teacher participating in P. L. 81-874 (Title I) academic activities.

NAME OF PUBLIC OR PRIVATE SCHOOL	INDIVIDUAL TEACHERS BY NAMES OR POSITIONS	Identify P.L. 81-874 (Title I) Subjects Taught As In Item 13a	Grade Level(s)	Total P.L. 81-874 (Title I) Teaching Time Per Day (Minutes)	Total Pupil Count Per Day (May be duplicated count)	Class Size Maximum and Minimum	Class Length Maximum and Minimum

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(Continued)

VI. Summary Description of Teacher Assignment ☐ Regular or ☐ Summer School P.L. 81-874

Use the following form to present a summary breakdown of the entire P. L. 81-874 (Title I) academic program. Information should be provided by school for each teacher participating in P. L. 81-874 (Title I) academic activities.

NAME OF PUBLIC OR PRIVATE SCHOOL	INDIVIDUAL TEACHERS BY NAMES OR POSITIONS	Identify P.L. 81-874 (Title I) Subjects Taught As In Item 13a	Grade Level(s)	Total P.L. 81-874 (Title I) Teaching Time Per Day (Minutes)	Total Pupil Count Per Day (May be duplicated count)	Class Size Maximum and Minimum	Class Length Maximum and Minimum

VII. Supportive Service Format ☐ Regular or ☐ Summer School

Write only one description of each supportive service shown in Item 13-B where P. L. 81-874 (Title I) personnel are not involved.

A. State type of service: Transportation, etc.

B. Description of P. L. 81-874 (Title I) service.

C. (Copy as stated). This supportive service will be restricted to children participating in a P. L. 81-874 (Title I) activity and/or P. L. 81-874 (Title I) funded personnel.

VIII. P. L. 81-874 (Title I) Job Description Format

Submit job description for all P. L. 81-874 (Title I) personnel except teachers and teacher aides.

A. Title

B. Schedule

1. Beginning and termination dates
2. Hours per day, days per week and number of weeks
3. Percentage of time paid from P. L. 81-874 (Title I) funds

C. List duties and responsibilities (be specific)

D. Identify by building(s) where this/these individual(s) will perform this/these service(s).

E. Include this completed statement:

"The duties and/or services of the P. L. 81-874 (Title I) ____________ will be restricted to children participating in a Title I activity and/or P. L. 81-874 (Title I) funded personnel."

E. Structured In-service For All P. L. 81-874 (Title I) Personnel ☐ Regular or ☐ Summer School P.L. 81-874

Give the locations and approximate dates of in-service training programs to be conducted. Enter an X in appropriate square in Columns 3, 5, and 6. In the appropriate square of Column 4 enter the number of persons to be involved. If the titles in Column 3, 4, 5 and 6 are not sufficient for proper identification enter the appropriate information and complete the line items affected. Do not include general faculty meetings or routine in-service involving all personnel.

Column 1	Column 2	Column 3					Column 4						Column 5						Column 6			
		TYPE					ATTENDED BY						CONDUCTED BY						EVALUATION			
LOCATIONS	APPROXIMATE DATES	Workshop	Inter Visitation	Intra Visitation			Teachers	Other Professionals	Education Aides	Other Non-Professionals			Teachers	Other Professionals	Education Aides	Other Non-Professionals			Checksheet	Outside Evaluation		

X. Calendar of Events ☐ Regular or ☐ Summer School

Construct only one calendar of events for the project. It should be constructed in three columns as indicated below. The name(s) of the person(s) responsible for each event should be indicated. Include the following:

1. The date(s) each local Parent Advisory Council met to discuss the P. L. 81-874 (Title I) program relative to their respective schools. The date(s) must be prior to the date(s) indicated in No. 2 below.
2. The date(s) the system-wide Parent Advisory Council met to present their views regarding the P. L. 81-874 (Title I) program.
3. The approximate dates of each local and system-wide Parent Advisory Council meetings which will be held during the year.
4. The approximate dates when testing and other items included in the Program information section will be implemented.
5. Other events. (Follow same procedure).

DATE	EVENT/MEETING	PERSON RESPONSIBLE

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Mr. BOBO. We had been anticipating the public housing portion for a long time. In 1975 and 1976 this did become a reality, and we did begin to receive funds for the low rent housing children. At that time there was some confusion as to the funding of this, and I believe in our state that perhaps there is still some confusion concerning the low rent housing funding portion of P.L. 874.

According to the existing regulations concerning the public housing portion, we have to submit an application to the State Department of Education. That application, after it is approved by the State Department of Education then must be considered by the office of Education.

All this must take place before we can ever begin to receive P.L. 874 public housing funds into the local school system. In our case, it is the Montgomery public school system.

I believe the regulations state that any funds coming through because of the low rent housing must be for special programs and projects designed to meet the special education needs of educationally deprived children from low income families. This being the case, then we have some recommendations that we wish the committee would consider considering the low rent public housing portion of P.L. 874.

Number one, the recommendation would be that low rent housing funds come to us like all other P.L. 874 funds that we receive. There are many categories of this, and we get them directly from the Office of Education, and we would like to recommend that the public housing portion be considered as all other of these funds.

If that can't be the case, then we would like to recommend that the public housing funds be considered and administered in the same way as the special ed funds, or the handicapped funds by the Office of Education in that particular category.

The special ed funds and the handicapped funds seem to be working very well. It would be most helpful if the public housing portion could function accordingly and by the same regulations in the funding area as the handicapped funds are now operating.

The third recommendation would be that they would like very strongly to recommend that the public housing students be funded at a higher level, perhaps as B civilians, which is 57 percent in tiers 1 and 2.

Then perhaps the fourth recommendation we would like to suggest for consideration would be that the State Department be eliminated from the approval of the application of the public housing funds, and that we apply directly to the Office of Education.

This is also the recommendation of our own State Department of Education, that they be eliminated from the approval of the application, and also from the responsibility of the supervision of the application once it is approved.

We are very appreciative of all of P.L. 874, not only the low rent housing of which we do have a substantial number in our county. We have over 3,000 low rent housing students that are enrolled in our public school system. We have a population of approximately 36,000 students in all in Montgomery, in the city and county system.

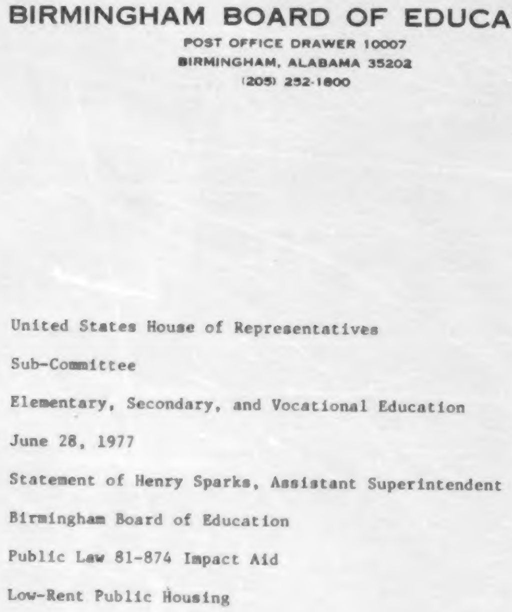
We are very appreciative of this, of all of the P.L. 874 funds, but particularly the low rent housing.

I want to thank the committee and you, Congressman Buchanan, for allowing us to appear here today and share our thoughts.

Mr. BUCHANAN. Mr. Chairman, as Dr. Bobo has indicated, he did bring a statement from our own Birmingham Board of Education, which I ask be included at this point in the record.

Mr. HEFTEL. It will be included in the record.

[The statement referred to follows:]



BIRMINGHAM BOARD OF EDUCATION
POST OFFICE DRAWER 10007
BIRMINGHAM, ALABAMA 35202
(205) 252-1800

United States House of Representatives

Sub-Committee

Elementary, Secondary, and Vocational Education

June 28, 1977

Statement of Henry Sparks, Assistant Superintendent

Birmingham Board of Education

Public Law 81-874 Impact Aid

Low-Rent Public Housing

BIRMINGHAM BOARD OF EDUCATION
POST OFFICE DRAWER 10007
BIRMINGHAM, ALABAMA 35202
(205) 252-1600

June 16, 1977

Mr. Chairman:

Concentrations of federally subsidized low-rent housing projects in urban areas create many additional demands for services. However, the ability of the urban areas to provide the additional services is reduced due to the fact that these projects are exempt from taxation.

School districts receive a large portion of their local revenue from community property taxes. Thus, families who reside and/or work in low-rent housing projects deprive the local community and, more importantly, the schools of much needed income. If we are to have equal educational opportunities, then those property owners whose property is not exempt from taxation must bear the burden of extra services rendered by having their taxes increased. The alternative is fewer dollars per pupil for education.

In Birmingham, Alabama, there are fourteen (14) federally funded low-rent housing projects. These projects have 6,566 units from which 5,237 students attend the Birmingham Public Schools, which had a total pupil enrollment of 50,311 as of May 20, 1977. This means that 10.4 percent (5,237 ÷ 50,311) of the school system's total enrollment is located in federally subsidized housing projects.

During the 1976-77 school year, the Birmingham School System had a total general fund budget of $44,054,103. With an enrollment of 50,311 students, this amounted to $875.64 per student per year ($44,054,103 ÷ 50,311). Of the $44,054,103 general fund budget, $15,609,799 came from local effort, which amounted to 35.4 percent of the budget ($15,609,799 ÷ $44,054,103). This means that local tax efforts amounted to $309.98 per child in the 1976-77 school year ($875.64 x 35.4%).

As previously stated, the Birmingham School System had 5,237 school children, or 10.4 percent of its pupils, from federally subsidized housing projects. The local tax revenue expended by the school system on these children amounted to $1,623,365.26 ($309.98 x 5,237).

If and when payment is approved, our school system will receive only $368,340.03 of 874 Funds for the fiscal year 1977 based upon the formula. The system will receive $59,905.11 from the housing project in lieu of taxes. This when added to the $368,340.03 totals $428,245.14. This amounts to $81.77 per pupil ($428,245.14 ÷ 5,237). This leaves a deficit of $228.21 per pupil in housing projects ($309.98 minus $81.77).

To sum up the situation, local tax revenue expended by the school system for educating the children from federally subsidized housing projects was $1,623,365.26 for this school year, 1976-77. The system will receive $428,245.14 in the 1977-78 school year. This means that the local extra burden amounts to $1,195,120.12 ($1,623,365.26 minus $428,245.14). This presents a real problem.

Amounts discussed do not include costs of constructing school facilities.

In addition, we ask if it is equitable for the parents who share in the tax burden of educating the children in these housing projects for their children not to derive benefits from the money received, because this money must be used to continue and to augment programs assisted under Title I of the Elementary and Secondary Act of 1965.

These suggestions are offered for consideration:

1. That the program be funded at the one hundred percent level.
2. That these funds not be tied to Title I, which is a categorical program for a specific set of purposes.
3. That there be a general aid program weighted to recognize factors such as:
    (a) Comparative local wealth.
    (b) Local cost of operating.
    (c) A heavy incidence of poverty level students.
    (d) Inflation.

Mr. **Heftel**. I believe our next member of the panel is Mr. Shipley, Coordinator of the Education Information Systems, Annapolis, Maryland.

[The statement of Mr. Shipley follows:]

LOW RENT HOUSING/IMPACT AID

STATEMENT BY
THOMAS R. SHIPLEY, COORDINATOR
EDUCATIONAL INFORMATION SYSTEMS
ANNE ARUNDEL COUNTY PUBLIC SCHOOLS
ANNAPOLIS, MARYLAND

BEFORE THE
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION

COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
TUESDAY, JUNE 28, 1977
9:30 A.M.

HONORABLE CARL D. PERKINS
CHAIRMAN

Position Paper: Low Rent Housing/Impact Aid
Logic and Data
June, 1977

The main (often only) source of educational revenue is derived from property taxes. Congress saw it as their obligation to contribute to the local budget to assist with the education of those children who live in low rent housing units in lieu of the taxes which "would have been paid" if that government property on which they lived was taxed. Depending on the location, the impact of these students on a local school district can be both programmatically significant and financially burdensom. It was accurately assumed by Congress that children from that socio-economic community which would qualify for low rent housing benefits would have special educational needs. It was also accurately assumed that if those housing units belonged to the federal government, the local government would receive no real estate taxes from those properties.

It is inconceivable that large quantities of children would be allowed to be such a strenuous economic drain on a local educational budget and be placed in "untaxable property" with no attempt at an alternative funding source.

In Anne Arundel County, Maryland, for example there are 11 low rent housing programs which account for 1,691 public school students. By the present standards, there are 175 type A students and 1,516 type B students among this population. (Exhibit I)

When Congress agreed to assist with the funding of the education for these children, they made certain decisions based on a pre-determined dollar value which was to be multiplied by a simple count of the eligible students.

One student's father is a custodian in a low rent housing project. He not only pays no property taxes on his home, his employer (the federal government) also pays no taxes on his place of employment. With absolutely no revenue coming in to the educational budget, the Congress saw as its obligation the need to provide $824.00 during the fiscal year 1975-76 to assist with that student's education. Even if it were all paid, this would fall far short of the $1,547.00 now being spend on that child's education. The intent was justified, and the amount is appreciated as an attempt at reimbursement but, what Congress probably didn't know when they voted is that this type A student, entitled to $824.00, would only receive $243.00 in the final payment. Those type A students entitled to a lesser amount of $742.00 would only be reimbursed at a rate of $219.00 per student.

Surely $219.00 towards education worth $1,547.00 is an unreasonable abortion of the original intent to assist the local agencies with the burden of the educational costs. That means, that $1,328.00 difference must be collected from home owners and business owners in order to subsidize the impact of the student who is forced onto the public school roll because of the existence of non-taxable federal property.

Rich or poor, has nothing to do with the conversation! A district is due the difference in monies from someone for providing these services to federally connected students. That someone hardly seems to be the regular, permanent resident of the community.

We continually hear criticism of the eligibility of these students in the program and continually hear the threat to eliminate this modest reimbursement. Here, ladies and gentlemen, are 1,500 B students in Anne Arundel County whose parents DO NOT PAY ANY property tax and yet the district receives only $109.00 of the $1,547.00 needed to educate these children.

While the State contributes $338.00 towards each child's education the local tax payment must still compensate $1,209.00 of which the federal government now pays the $109.00 previously mentioned.

What kind of an incentive to a community is it to accept low rent housing units if their reward will be higher property taxes to pay for the education of the children who live in those units?

If those properties listed on Exhibit I were taxes at a rate equal to other county properties ($2.60 per $100.00), the county would realize a tax revenue of $337,872.00, and yet, only $185,359.00 was actually paid.

Expressed in percentages, it costs $2,615,977.00 to educate these children and that represents 2.5% of the total county school budget. Even if Public Law 874 were funded at its full entitlement amounts, we would only have been reimbursed .6% of the budget. The actual return to the local unit was .2% when paid at 29.5% of entitlement.

It is therefore sincerely believed that:

1. Low rent housing children are entitled to federal support in order to replace the non-categorical funds eliminated from the tax base by the creation of these properties. If there is any overlap with other federal assistance programs, it is due to the governmental restrictions in making these funds a categorical replacement of non-categorical funds lost for the general education of these children. We sincerely believe that Congress did not intend that to happen. The Office of Education simply found it easier to turn these funds over to the Title I bureaucracy than to accept the administration of these funds as Congress intended.
2. That a figure more equal to the original entitlement should be funded.

3. That these funds, regardless of their amount, be released from the Title I type program obligations and that they be allowed to become a part of the non-categorical monies so necessary for the successful operation of our public schools.

It is a fact that 1,691 students would cost Anne Arundel County $2,615,977.00 to educate. Of that amount, low rent housing reimbursement only contributed $185,359.00 and that was forced to be spent on Title I type programs. The very nature of a low rent housing project implies that it can never be self-sufficient in supporting its own services. They are already being subsidized significantly by the local county residents.

It should, therefore, be evident that not only does the funding need to be raised to a more equitable level, but that we have a serious need for it to be freed from its Title I obligations.

EXHIBIT I

Anne Arundel County Low Rent Housing Projects List

NAME	ASSESSED VALUE 50%	A	B	Total
College Creek Terrace	$ 1,129,400	0	37	37
Eastport Terrace	1,181,377 (*)	20	85	105
Bloomsbury Square	1,181,377 (*)	0	28	28
Obery Court	575,845	14	87	101
Annapolis Gardens	1,181,377 (*)	49	196	245
Harbour House	1,250,865	0	134	134
Robinwood	1,192,705	59	435	494
Newtowne 20	1,181,377 (*)	6	121	127
Bowman Court	577,700	9	106	115
Burwood Gardens	1,689,290	1	0	1
Meade Village	1,853,840	17	287	304
	$12,995,153	175	1516	1691

NOTE:
- $12,995,153 taxed at $2.60 per 100 = $337,872
- (*) = Extrapolated Data

EXHIBIT II

LOW RENT HOUSING
ANNE ARUNDEL COUNTY, MARYLAND

1975-76

	A-1		A-2		B	
Local Contrib. Rate	$ 824.92	100 %	$ 824.92	100 %	$ 824.92	100 %
Entitlement	$ 742.43	90 %	$ 824.92	100 %	$ 371.21	45 %
Paid at:	$ 219.02	29.5%	$ 243.35	29.5%	$ 109.53	29.5%
Avg. Daily Att. (x)	141.48	-	16.22	-	1373.38	-
Total Paid	$ 30,986.95	29.5%	$ 3,947.15	29.5%	$150,426.31	29.5%
Total Intended	$105,038.99	100 %	$ 13,380.20	100 %	$509,812.45	100 %

NOTE: Numbers of students from Exhibit I do not agree with Exhibit II because I represents "bodies" and II represents "average daily attendance."

Mr. **Shipley**. Good morning, sir. Thank you for letting me share some of these problems with you.

In Anne Arundel County, particularly concentrated in the Annapolis area, we have 11 low rent housing units, and from those low rent housing units I receive daily into my public school system 1,600 and some low rent housing children. I would like to use just one of those children as an example of the justification for the funding of low rent housing children.

I have a young man whose father is the head custodian in one of the units. Now, that young man's father and mother do not have to pay any real estate tax on the apartment in the building in which they live. Yet, most of my funds for educating that child come from the real estate tax.

Being the custodian in the building he is employed by the Federal Government, and the property belonging to the Federal Government neither pays any tax. So, I not only miss my share of the taxes to educate this child from the mother and father paying real estate tax on their home, but I also lose the taxes from the business where his father might potentially be employed if he had to work somewhere other than on Federal property.

Now, in Anne Arundel County we are spending about $1,500 a year to educate each of our children. If you will notice on the board, the State of Maryland provides me with $338 each year towards that $1,547 that it costs me to provide services. That leaves me $1,200 to come up with from some local source.

I apply to you all and say, "ladies and gentlemen, I am entitled to some reimbursement because I cannot tax this property, the residence, and I cannot tax it as a business. I still have $1,200 to come up with. Where shall I get the money?"

We apply as a type B under law 874. I get $219 out of the $1,200 that I need, meaning, you see, that there is still almost $1,000 left, not provided by the Federal Government, not available from real estate tax revenue, and which must be picked up by the other taxpayers in the county.

In essence, they are subsidizing those 1,600 children who come from the low rent housing areas.

Now, I am appreciative of the $219 that I get, but instead of being able to apply it towards the general education of the child, I am further told by regulations that I must spend it on Title I type programs, and if there is any redundnacy between the $219 as we have been accused of having, it is because the Federal regulations said that I must give this child more special services.

He, if you will excuse me, doesn't need any more special services—he needs some basic services.

You will notice on my chart the 11 housing units, Chart 1, total to about $25 million in assessed value. At 50 percent, that is $12,900,00 and some dollars. When taxed at a rate of $2.60 per hundred, they would have provided for me $337,000 in real estate taxes.

Now, my problem, as I express on pages 2 and 3 of the testimony—while the state contributes $338 towards that child's education, we still must compensate $1,209, of which I receive anywhere from $109 to $209. It is not much of an incentive to accept low rent housing into your community if you are going to be told in advance that you are going to subsidize every child that lives in that unit to the tune of about $1,000 per head.

If those properties listed on Exhibit 1 were taxed at a rate equal to other community property, we would have received $337,000 in taxes, and yet I received $185,000 from my B funds, and again was told to spend them on Title 1 type programs.

Expressed in percentages, it costs me $2,600,000 to educate those children from those 11 units. That represents 2.5 percent of my total budget. Even if Public Law 874 were funded at its full amount, it would only have provided six-tenths of a percent of my budget. When it was actually reduced to its entitlement, 29.5 percent, it only provided two-tenths of a percent of my budget rather than the 2.5 percent it costs me to educate those children.

So, in summing things up, I just really sincerely believe that low rent housing children are entitled to this Federal support in order to replace the noncategorical funds which were eliminated from the tax base by the creation of these properties within my district. If there is any overlap with other Federal assistance programs, it is due to the governmental restrictions in making these funds categorical replacements for noncatgorical funds lost.

We sincerely believe that Congress did not intend that to happen. A figure more equal to its original intent should be funded, and these funds regardless of their amount should be released from the Title I type obligations.

I would be glad to answer any questions.

Mr. **Heftel**. Thank you very much. I think we will have questions now.

Before we start, I wonder if I could ask you gentlemen one question regarding the three provisions wherein you have public housing and the funds go in with a restriction that they must be used specifically. In the handicapped, military, or Indian you have an additional 50 percent, in which there is a degree of latitude, and then in the Indian children it goes into the general funds, and there is obviously no earmarking or control.

Do you feel that those three distinctions are meaningful and serve a purpose in protecting the funds that come into the school districts?

I leave that to any of you gentlemen that would like to respond.

Dr. **Swicegood**. Speaking on behalf of the Indian children, I personally like the idea of the no earmarking of the funding. Again, I would reiterate, I do personally disapprove of the State of New Mexico in their equalization formula assuming 95 percent credit for those 874 funds in their formula.

Mr. **Bobo**. We do not object to any earmarking of some funds according to accountability, I would not think. In the case of special ed, in our particular system of the handicapped we have 68 in which we deal with in this light. With that, we put far more than that amount of money locally with this, so it offsets it there in that respect.

However, if we go and switch that, by the same light, to the low rent housing portion, we would like to have it in the same light as this handicapped, to offset it in this light—if we put more for type of programs that we have to have approved for low rent housing like Title I—if we put local money into it.

If we do not—of course, naturally we would like to have it unearmarked in that area to come in to us. But I don't think we would have any objection for it going to the type of program if that is what the law creates in that particular light. But, if we put local money into it, we would like to offset it in the same light that the handicapped section allows us to do.

Mr. **Heftel**. Of about $70 million that has been earmarked, for public housing funds for education, it has been estimated $20 million to $30 million is not being applied for. Do you have any perception as to why this is so?

Mr. **Shipley**. Yes, sir. I have often heard folks say that they only have one or two units, and when those one or two units are multiplied times the entire United States, of course you come up with a large quantity of low rent housing units which are entitled to these services, these funds.

There is so much red tape to go through, and there is so much application that you have to make locally, then state, then Federal, and then it has to bounce back, approval, approval, approval. Then when you finally get the money, chances are it is already for the same programs that you are providing for these children because of the Title I money that goes into those very similar socioeconomic communities.

You know, I am basically a conservative farmer from the Eastern Shore of Maryland. It is against my grain to even come to Washington to ask for Federal funds. I wouldn't be here if I didn't think that we were entitled to that money—not that we are asking you a favor. That money that we ask for low rent housing is in place of the tax revenue that I would ordinarily get if I could go into that large apartment building and charge those folks real estate tax or charge those employers there their taxes as employers.

It seems to me, yes, I do have objection to the low rent housing money being categorical. It is to replace noncategorical funds, and it is in some cases redundant.

Mr. **Buchanan**. Mr. Shipley, my own Assistant Superintendent of Education, Henry Sparks, in his prepared statement, which is now in the record, points up that our situation in the City of Birmingham is somewhat comparable to your own.

For example, Birmingham has 14 Federally funded low rent housing projects. There are 5,237 students in the Birmingham public schools from those projects, and they comprise 10.4 percent of our total enrollment. This is a very substantial portion of our student population.

Of course, the city can derive no property taxes or revenues for support of these. Therefore, this is a needed program.

I just want to point out in connection with the question that you asked that our figures are not as high as yours because we are not providing that much per pupil. I wish they were that high. But, our situation is comparable.

He recommended, Mr. Chairman, that the program be funded at the 100 percent level, that the funds not be tied to Title I, which is the categorical program, and that there be a general aid program weighted to recognize comparatively local wealth, low cost of operating, a heavy incidence of poverty level students, and inflation.

Mr. **Heftel**. Thank you very much.

Mr. Miller, any questions?

Mr. **Miller**. None at this time, Mr. Heftel.

Mr. **Heftel**. One of the reasons that we have had some of these meetings with Dr. Fish is the obvious problem that it seems that each Administration begins by eliminating in part or in total impact aid as an extraneous program.

It is becoming quite obvious that those who are concerned with impacted districts, and those of us in Congress who have districts relying on impact aid, are going to have to formulate a program which can clearly define what is being testified to; namely, that the Federal Government would be far better off maintaining impact aid than it would be if, for instance, it was either going to pay property taxes or was going to pay nonresident tuition fees for the students who attend in the districts where they now have no tuition fee, but rely on the impact aid funds. That is something that will occur now with the passing of time as we have additional meetings.

One of the questions that has come up regarding your district, Mr. Tallchief, is whether the Department of Education has done any reviewing of how and to what extent the Indian children are participating in the utilization of the funds that go into the program.

Mr. **Tallchief**. In the State of Montana at the present time we have no equalization program. I could give you the average of what it costs us to educate a student in our particular district. But we do not participate in the state equalization because they have no equalization at the present time.

Mr. **Heftel**. Has the Office of Education come in and done any reviews that you are aware of?

Mr. **Tallchief**. Yes. They come in it seems about every year in my place—I don't know whether they think I am trying to fool them or what, but they are in, audit my books. We appreciate that factor from them because it gives them a truer picture of what we have, and what we need.

Mr. **Heftel**. I would feel that perhaps at the culmination of these hearings—two more days—it will be interesting to hear what the testimony is like because I think it all goes in the same direction; namely, that impact aid is indispensable and that the Federal Government, in each Administration because there seems to be no particular bureaucracy here supporting and advocating it, is constantly suggesting that it be eliminated.

That seems to be the major thrust of what the school districts on impact aid have to overcome. There may be other specifications in terms of the allocation of funds and the manner in which you must target the public housing funds. I think that is a secondary problem.

I think the primary problem is maintaining the equity and the realization of the necessity for the program; the fact that it is not something you can just casually dispense with.

Is there any observation from you four gentlemen about the need for this kind of understanding on the part of the Department of Education and then subsequently the communication of this to each Administration?

Mr. BOBO. I would like to comment, if I may, on that.

I would like to say in our own district of Montgomery, which is a city and county system of 36,000 children, and we have approximately 5,000 impact aid students and 3,000 public housing, which is approximately 8,000 in all—this is one of the best programs through the history that we have ever had. It is one that is very simple to administer, has been through the years.

The only thing that we have gotten into is the low rent public housing part, which has required many applications, and I think in many systems that receive a small amount of money this may be a great problem for them to do, particularly in our state where they receive 50,000 or 60,000 to have to go through the process of doing this makes it very difficult for them to do.

But overall through the years this has been a simple program for us to administer in this area, and one that has not been costly. We have had a very good relationship with all the people both on a regional level and at the state. That is what we would like to keep—something that is simple to administer, and something that is in lieu of taxes, that comes in to us. We simply could not do without this at this point in time. If we did without it, if we lost this amount of money, which is about $1,200,000 for our system totally, then there is nothing to replace this.

In our area of tax structure, of replacing taxes and replacing property taxes, of which we are involved—we have tried this before—we cannot do this. So, this would cause a lessening of this amount of money for our public school system which would cause a lessening of services for the public school children that we have.

We have many other things that bear on this—our ability to raise the local level of taxes. We have tried this from time to time. We have been under court order, Federal court order for many years, and we are still under. We simply cannot do this at this point in time.

So, a loss of our 874 money would bring about a lessening of the quality of education in our system a great deal. We desperately wish to keep this on in every portion, particularly the B students. We have over 2,000 of the B students.

The reason for funding of the B students and the levels of funding we feel is very fair now. We would like to see this continued and think the justification is there for that.

Mr. HEFTEL. Have you discussed, either members of the panel or Dr. Fish, with the Department of Education the fact that the application requirements for the public housing children is sufficiently complex and difficult, that it deters application by this $20 to $30 million of potential revenue because of the cost of trying to apply for the funds? Have you discussed this specifically with the Department of Education?

Dr. FISH. Yes, we have.

Mr. HEFTEL. Mr. Shipley, could you comment on that specifically?

Mr. SHIPLEY. I would be glad to take the first half, and maybe Dave could pick it up.

We recently submitted to the Maryland State Department of Education a voluminous document, detailing how we were going to incorporate the Title I funds from the low rent housing children in with the regular Title I money. They insisted this year there would be one proposal.

Last year they let us get by with the Title I proposal and an additional proposal for Title I type programs funded by 874. This year in trying to combine the two we had a very complicated test to go through concerning what money was going to be spent for what services.

Then, the other day, just last week, I received a call from the State Department. They said they had reviewed our application and it was programmatically and philosophically beautiful but they would not approve it becuase they did not know for sure that I was going to get the $180,000 that I had put into my program, because it was based on impact aid money, and that is so iffy that they wanted me to reduce it to the money I knew I was going to have.

I really find it difficult to know what money I am going to have a year in advance. I think the fiscal authorities in even a tiny school district are very reluctant to apply for any funds which, one, it costs them more to administer than they get back in funds and, secondly, which they know are philosophically redundant to something they are already doing.

They say we are already providing these services, there is an overkill, and so I think if you left that same amount of money in the budget, and reduced the requirements and the categorical demands, that the money would indeed be applied for and justified.

Now, as far as contact with the Federal Government, I have had none. I am having enough trouble with the state.

Mr. HEFTEL. Dr. Fish, I think it would be interesting to have what response you received when what you are testifying to in front of us was expressed to the Department of Education.

Dr. FISH. The problem with the Department of Education as we analyzed it when there were no hearings about this option, prior to this introduction of Public Law 93-380—it was done at the last moment. It set up—it did not mandate that the low-rent housing money be spent through the Title I mechanism. It is our opinion that that was the only existing mechanism in the Office of Education.

I talked subsequently with the Title I people there and I can believe that they did not want it, but it was the only vehicle they had. So they had a tradition of Title I type of operation, from their point of view it was simply to be added to it, and so forth. It did include in the law that the State monitor the program.

The question is, what was to be monitored? It was our belief and analysis that very simple assurance on—the law says as I recall, for the purposes of providing—it is for low-income students; it did not include Title I appearing in some of the report language. So we believed a simple assurance could be done, simple one-page application such as used in some programs. We believe the mechanism used for the handicapped, as Mr. Bobo mentioned, would work effectively here.

There are some points that are significant. My district did not apply for the $40,000 it was eligible for under low-rent housing primarily because the cost of administration and the delay of our other applications and so forth, the lateness of the whole process, and a couple of other factors simply made it too cumbersome to handle.

We believed that since our district does spend $2 million of what we call district compensatory education on its own volition that we could have at least even applied this money against those funds, but there is no really systematic approach made in the Office of Education to the processing and handling of these funds. That is bounced back and forth between various offices there.

The States do not like it, among other reasons, because there are no funds that are diverted to the cost of administration at the State level. That is one of the beauties of impact aid. There is very little administration peel-off along the way.

Mr. **Pressler**. Mr. Heftel.

Mr. **Heftel**. Why do you not proceed.

Mr. **Pressler**. What if the impact aid money is not restored or partially restored, will the local districts have to turn to the States?

What will happen to the students?

Mr. **Heftel**. From what we have heard, and we will ask you to confirm this, we are just going to have some chaos on our hands.

Dr. **Fish**. In the State of California, if we lost impact aid funds under the revenue limit provision, we could not automatically get either State aid or increased property taxes. We would have to go to the local property taxpayer for a tax override election. That would be a very detrimental factor because we would have to say, because the Federal Government is not willing to pay its share we must ask you to assume this burden.

The local property taxpayer has had it up to here with that kind of talk.

Mr. **Pressler**. What about the States?

Dr. **Fish**. What do you mean by the States, sir?

Mr. **Pressler**. Well, Statewide aid?

Dr. **Fish**. I think that would depend on the States.

In California there is no provision for recognizing it. We would have to go the State Legislature for new legislation.

Mr. **Pressler**. What would their reaction be?

Dr. **Fish**. I think it would be almost identical, as far as I can tell. They are hard enough pressed to meet their obligations now. A number of States are even proposing to pick up the impact aid funds under the equalization clauses. We are very concerned that there is no guarantee that this money would stay in education. If they did take the impact aid funds, there is no requirement that the money would stay in education. It might simply be a supplanting of State effort.

Mr. **Pressler**. You have stated it very well, I think.

In South Dakota we have the same problem, as some of our people from Douglas School and elsewhere testified before this committee. I think it is essential we restore this aid.

Mr. **Heftel**. Thank you, Mr. Pressler.

Mr. Tallchief.

Mr. **Tallchief**. Mr. Chairman, in our particular situation, we are talking about taxation and valuations, total tax value of property within our district is $125,377. One mill in my district will work out to $125.38, as compared to a district the same size of ours, their millage would be $4,715, which is a figure 38 percent times more than my valuation. We are a public school within the bounds of the reservation.

What would happen, we would have to close all of our schools and hope that someone else could pick them up. We are not under the BVIA being a public school, even though 99.9 percent of my students are Indians, and they fall into the category of As. We have some Bs. Every dollar to us means just that much more that we can give a child.

Indian students as a whole in our particular situation are really handicapped, educationally, not physically. It takes a good deal more money to give them the basic quality of education to bring them up, we hope, to the level of the domianant society sometime soon.

We keep fighting this battle, not only with the 874 aspect, but also with the 815, where we have no money for construction.

Thank you.

Mr. Heftel. Mr. Buchanan—

Dr. Swicegood. I would like to add, I think it would be an educational tragedy if they cut back or do away with 874 or 815. In my opinion, the level of funding for 815 is already pathetic. If anything, it needs to be increased, many times over.

Thank you.

Mr. Tallchief. One point that I would like to make here.

In 1977, in the high school, 46.4 percent of my budget came from 874. In the elementary it was 32.1 percent of our budget comes from 874. So you could see what would happen if we were to lose 874 money.

Again, may I say we have enough categorical programs, we need the basic programs, because without the basic programs we could not have the categorical programs to bring them up to meet the basic needs.

Mr. Heftel. You mean you need a school district before you can have educational funds?

Mr. Tallchief. Yes, sir.

Mr. Heftel. Mr Buchanan.

Mr. Buchanan. Thank you, Mr. Chairman.

We have two or three problems that I do not know how to solve. Some of us co-sponsored the whole revenue sharing idea because of a fiscal mismatch in government, that State and local governments are saddled with property taxes, sales taxes, and other such unlikely means to raise revenue they must have for schools and other purposes, whereas the Federal Government preempted to a large extent the income tax, which is the growing source of revenue. Yet the demands on State and local governments have increased even more drastically than the demands on the Federal Government. I want to ask the question:

Do you have any other sources, State, local, or otherwise, that can replace the money provided by these Federal funds for the impact aid program?

Do you know of any other alternative source from which you could obtain these funds if they did not come to you from this program?

Mr. **Bobo**. Congressman, you are familiar very much with the way we fund schools in Alabama. Down our way you have been more successful in Birmingham than we have because I think you were able, over two or three years back, to add to the millage. If we lost 874, it would cause us to have to replace, by millage, if we could, which we cannot—we tried six years ago I think and it was voted down about three-to-one—it would cause us to have to raise the millage just to keep up with what we are now by five mills. We know, we have already tried it; this cannot be.

There are no other sources we can get to pay the general expenditures to run the school system, bcause all our money that comes from the State is earmarked. So when the State money comes to us as earmarked, all we have is 874 and what we collect locally, that is all. There is no other source of funds that we can tap in this area. So I do not know where we would get it. I do not think we could.

I think if we lost 874 we would have to reduce services, which would have to mean, in our case, that we would have to lay off teachers. There would be no other way because such a high percentage of our budget goes to teachers' salaries, over 80 percent. So if we lost $1.5 million, it would throw us into complete chaos.

Mr. **Heftel**. Yes, Mr. Shipley.

Mr. **Shipley**. One possibility would be, for instance, that at Fort Meade I have 19,000 acres and I have a large comprehensive senior high school, fine junior high school, and several elementary schools. I could say, "Gee, would you please take over these schools and I will bus the children from the housing units on to Fort Meade and you could be responsible for the building and the faculty and the entire business."

In fact, then the schools on the base would be government schools, government-run, government-funded, and it would not be any of my business.

Mr. **Buchanan**. I think you have touched on something that I believe counsel and I were talking about. It may be, Mr. Chairman, sooner or later we are going to have to let the Defense Department—or the impacting agency—pay directly out of its budget for the cost of that impaction. HUD also pays a small amount, doesn't it?

Mr. **Bobo**. In our system, for the 3,000 public housing students that we get, we get $6,000.

Mr. **Buchanan**. One of the other problems, as you are well aware, is that out of the giant HEW budget of $169 billion, which is a favorite target for budget cutters at OMB and around here too, $10.2 billion is in education. Yet if you look at the uncontrollable items in the HEW budget, education comprises over 60 percent of the $17 billion or so that is subject to cutting without changing the basic law.

So it seems that we need some kind of major reform if we are ever going to achieve what we must achieve in education. If you cannot raise the money locally, it must be found elsewhere. In Birmingham we have passed a new tax in recent years; I think we are the only major city in the country that has. We approved a bond issue just recently, partially for educational purposes, but that is highly unusual.

What would you think? You mentioned the idea of the Defense Department paying its own freight. What do the rest of you think about that?

Mr. SHIPLEY. That is back around the cycle, because that is the way we started. You all asked us to take over the schools. We did. Now we have been all the way around.

Mr. BUCHANAN. Of course, the trouble in government is that HEW is a wonderful demagogic target and Defense is not. HUD is not as vulnerable, for some reason, as HEW. We have a major problem on our hands.

Mr. TALLCHIEF. I would not know where we would turn. Probably the statement would be that you might turn to the BIA. Not being derogatory to the BIA, but my board would not be in favor of that because they feel they would lose local control and by the time it would come through many different agencies before it got down to us, they would take administrative costs off and we might not be any better off.

Mr. BUCHANAN. Do you get money for educational purposes from BIA at the present time?

Mr. TALLCHIEF. No, sir.

Mr. BUCHANAN. I think you have made a strong case, gentlemen. I just wish there was some way we could let the OMB and the Appropriations Comittee and Budget Committee know. I told a friend of mine at the Office of Education that when your Democrats took over from my Republicans things would be different, and I would be on the right side in terms of voting higher money for education. It seems there is not any right side all of a sudden.

I wonder, Dr. Swicegood, did OE give you any reason why the Gallup school district was not permitted to use 874 moneys to pay the cost to Arizona?

Dr. SWICEGOOD. Yes. One alternative that was discussed was to get a separate check for those students being educated across the State line in Arizona. At that time it was felt that this may cause quite a complication in the computer program.

In discussing this with Mr. Stormer yesterday in his office, he indicated that at this time there is a possibility now that maybe this can be worked out. Anyway, I think we are going to be taking a look at that. What was not logical to us was that the 874 funds could not follow the children who were being educated in another public school district, even though it was in Arizona at the time.

As I say, I believe Mr. Stormer will be looking at this. Perhaps it can be worked out.

Mr. BUCHANAN. I certainly hope Mr. Stormer will give his close attention to that.

Dr. SWICEGOOD. I hope so, too.

Mr. BUCHANAN. Yes.

Mr. Chairman.

Mr. HEFTEL. Were you here when Mr. Stormer testified?

Mr. BUCHANAN. I do not believe I was.

Mr. HEFTEL. I think it is worth repeating. My recollection, and I think I am accurate—is Mr. Stormer here? There you are.

I believe, was it the second or first paragraph in which you indicated there was a state of confusion and complexity about the program? I think that is the starting position, Mr. Buchanan.

Mr. **Buchanan**. Is that because it was created by Congress, Mr. Chairman?

Mr. **Heftel**. I was not certain as to why, but I was concerned that when the administrator of a program thinks it is confused and complex, we are going to be in trouble, obviously. It is like what is happening to a business and when you hear the man who owns it say it is complex and confused, you know why it is in trouble.

I think what we are hearing through all of these testimonies is that the program is indispensable, that you cannot maintain the school systems without it; that the alternatives would be more costly if, for instance, we went to a tuition base for nonresident students or we let the Federal Government put in schools, which would be sheer lunacy to be putting in new schools for children of military dependents.

It just does not make any sense, of course. Yet we still find that it is the first program to be threatened or eliminated by a new administration. Of even greater concern is what we are told about deals being made for trade-offs, that impact aid will phase out and other programs will phase in.

Are the people putting the new programs in going to have those funds going to the areas that are now receiving the impact aid funds, or are these funds going to be going to other districts, so you will take impact aid funds, basically allocate them to districts that are not now receiving those funds?

What do you do in the districts that were receiving those funds?

All of those are obvious questions that you would think would have been answered and thought through before somebody suggested they were going to eliminate impact aid.

In terms of HEW, I think another observation we all have to stay aware of is that there is a bill before both the House and the Senate—I was pleased to do it in the House and Senator Ribicoff in the Senate—to make education a separate department within government, to pull it out of HEW. President Carter advocated this before his election.

I think some of what we are hearing today is again telling us why education should not be a part of HEW, but a separate department.

Secondly, simplification of methods whereby these funds go to the district to get into the classroom and not to be dissipated along the way in administrative costs that do not add to the quality of education in the classroom.

Since you have become a convert to impact aid as you expressed it, Mr. Buchanan, I wonder if you are going to continue the conversion right to the right side of the aisle.

Mr. **Buchanan**. I just hope we get both sides of the aisle committed to your commitment to education, Mr. Chairman. I think that would be a substantial improvement. I do not know what will be required for this country to awaken to its responsibility in education, but if we cannot raise local revenues—my own State provided some additional State revenue this year, I am glad to say, but it just seems to me it has to be at the Federal level if you are going to continue to give children anything close to a quality education.

I certainly understand personally and am very sympathetic with the thrust of the testimony of the witnesses.

Thank you, Mr. Chairman.

Mr. **Heftel**. Mr. Shipley.

Mr. **Shipley**. Two things that have been said in the last few minutes really concern me.

One is that Public Law 874 as it was originally designed was perhaps one of the simplest and most straightforwad programs of any we have to deal with in Federal funds and Federal bureaucracy. To continually hear about its complication and its difficulty, it seems contradictory to the original concept it was based on. It has been—I cannot think of any other word that I can use—it has been bastardized.

Mr. **Heftel**. Are you saying you started with a simple and straightforward law and figured out how to make it work?

Mr. **Shipley**. I have 78,000 children in Anne Arundel County. At the beginning of each school year I simply sent out a card which asked: Are you or are you not Federally-connected? If so, in which of these categories? Then I multiplied that by an amount and made the aplication. Then I put that money back into the noncategorical general revenue and paid for these children's education.

There is no program simpler than that.

The second thing that concerns me, I do not mean any disrespect to Mr. Stormer, but for the last two weeks I have heard about the computer programs. In the last ten years it has been my responsibility to design and implement one of the most comprehensive educational computer centers in the country, and I am very proud of that. I would be glad to show you the way you can do it, any time, for chldren.

At no time is a programmer going to tell me that the machine will not do what I ask it to do. If in fact Mr. Stormer or anybody else is having trouble, then the computer has not been made to do what it is capable of doing. It is a programmer problem, not the problem of the law or the intent of the law.

Mr. **Heftel**. Thank you.

Mr. **Bobo**. Mr. Chairman, if I might add to that just a little.

On a local level, it is very inexpensive to administer 874, perhaps the least amount of any Federal program. Myself and the secretary do the count, and that is it.

Perhaps two people in our central office work on this. When you compare that to how many in our central office are on Title I, there is just no comparison, because we have many, many more in that area. When you go to the same level in the State, I know of two people that work on the 874, when you compare the two people to the people that are in the Title I section, it is tremendously more.

I would imagine the same thing would be true on the Federal level, you would know more about that here; that there are many more people. So it is a program that I think is one that over the years has been simple to administer in that respect.

If we could get—that is one thing, we are trying to cut down somewhat on the public housing part, the complexity of it, letting it come to us like all the other 874. It has been a simple program to administer over the years.

Mr. **Heftel**. Thank you.

I believe that our counsel, Mr. Jennings, has some questions.

Mr. JENNINGS. Thank you, Mr. Heftel.

Mr. Swicegood, tomorrow the Secretary of Education for the State of New Mexico is going to testify on equalization affecting impact aid. In your testimony you said that you felt that you were discriminated against in the State distribution program in New Mexico, in that the State has discounted 95 percent of the impact aid your school district is receiving in its computations under the State equalization program.

I believe the answer which we have heard in the past from the State of New Mexico has been that relatively your school district is wealthier, when you consider impact aid and your local resources and you compare your school district with other school districts within New Mexico; therefore, they felt when they redesigned the State aid program that they had to discount the impact aid in order to have an equitable distribution of funds throughout the State.

Since the Secretary of Education is going to be here tomorrow, could you respond to that, so that he can be asked tomorrow what their reasoning was?

Dr. SWICEGOOD. Yes, I will be glad to respond to it.

I thought Mr. Wugalter was going to be here this morning, as a matter of fact. Although we are personal and professional friends, we happen to disagree on this point in question.

In terms of our school district being a wealthy school district because of the large Federal budgets that we do receive, I would respond to that by pointing out that all of our programs are supplemental in nature, very categorical, and limited in terms of scope.

So you cannot justifiably say that because our school district receives $4 million in Federal budgeted funds that this, then, offsets $4 million in general State-appropritaed funds.

Mr. JENNINGS. Are they discounting all Federal aid or are they only discounting impact aid which goes into the general budget?

Dr. SWICEGOOD. They take credit for 874, AEC money, Atomic Energy Commission money. That has just recently been fought out in the courts also, coming from Los Alamos.

They also take credit for Federal Reserve moneys that they would receive. There are about seven or eight different categories. Naturally, the 874 is the largest single category that they take credit for.

Mr. JENNINGS. If I understand your objection, it is that the Federal aid is categorical and therefore ought not to be discounted. But in fact aren't the funds which they are discounting general funds which go into the budget?

Dr. SWICEGOOD. My objection is in taking credit for the 874 funds, in particular. As the law was administered prior to the equalization program in the State of New Mexico, we received our State per capita share and then we received 874 funds, presumably so that we could provide some extra effort in the education of Indian children.

Mr. JENNINGS. Mr. Cross, minority staff member, has suggested the same request I was thinking of making, which is if you could give us a chart showing over the last five years how much you had been receiving in impact aid and these other aids which go directly into your budget, and if you could compare that with your State aid over the last five years.

I am sure what they would contend would be that if they could not consider your impact aid, you would be spending impact aid, State aid, local resources giving you a much higher expenditure per child than other school districts within the State would have, and therefore, there was a need to bring you down a little bit and give more aid to other school districts in the State.

If you do not agree with that analysis, it would be helpful if you could give us some documentation for the record.

Dr. SWICEGOOD. Okay.

First of all, I would not have this information with me here this morning. I would be glad to supply it at a later date.

Mr. JENNINGS. That would be helpful. We would need it today, if you do not mind, because the Secretary of Education is going to be here tomorrow. Is there some way you could call back and receive that information?

Dr. SWICEGOOD. Perhaps. I will try that.

[Information requested follows:]

STATISTICS
GALLUP-MCKINLEY COUNTY SCHOOLS

Categorical Federal Aid by Fund

	71-72	72-73	73-74	74-75	75-76
Title I	$752,287	$ 653,974	$ 821.972	$ 663,337	$1,610,711
Follow Through	187,965	243,810	281,159	276,366	229,574
Title IV	-0-	-0-	287,385	990 557	795,315
Johnson-O'Malley	833,042	1,035 175	1,004,521	1,313,304	1,341.867
Title VII	73,630	85,925	109,477	127,476	-0-
Total	1,846,924	2 018,884	2,504,514	3,371,040	3.977.467

Operational Budget by Source

	71-72	72-73	73-74	74-75	75-76
Local	$ 896,491	$1,019,912	$1,114,874	$1.044,262	$ 902,389
State	5.911,801	6,839,317	6,983,904	7,762,322	6.963,868
Federal*	2,796 093	4 199,562	3,532,542	3,190,587	4 141,546
	9,577.385	12,058,791	11,631,322	11,997,181	12,077.803

*P.L. 874 mostly; some minor amounts for Forest Reserve and Regular Vocational

Total -- All Funds and Operational

71-72	72-73	73-74	74-75	75-76
$11.424.309	$14,077.675	$14,135,836	$15,368,221	$16,055,270

Question: Should the State of New Mexico take 95% credit for P.L. 874 funds in the equalization formula?

My response: By original intent, P.L. 874 funds were to provide extra or special financial aid in impacted areas. Under equalization, P.L. 874 funds merely provide state-average financial aid with the exception of the 5% uncredited.

Summary: I am not opposed to equalization formulas in concept. The fact of the matter is, however, under equalization the P.L. 874 funds do not meet their original intent.

Funding Sources for Which New Mexico Takes 95% Credit:

Local	Federal
District tax levy	P.L. 874
Motor vehicle	Federal Vocational
	Federal Forest Reserve

Amount of Money New Mexico Has Taken for Credit:

74-75	75-76	76-77
$3,347,583	$4,516 719	$5,446,736

Dr. **Swicegood**. In terms of it being a rich school district, I might point out that five years ago we were sixth from the top in the State of New Mexico, in terms of salary schedules. We are now 72nd out of 88.

Mr. **Jennings**. That certainly does not show wealth.

Mr. **Heftel**. What is your attitude toward the concept of equalization within a State, the theory, namely, that the number of dollars per student throughout a State should be the same regardless of what district?

Dr. **Swicegood**. As I indicated in my earlier testimony, I am not unalterably opposed to equalization formulas. As a matter of fact, I think the equalization formula works very well for the majority of school districts in the State of New Mexico.

Again, in this particular school district, in this particular setting it does not work well at all.

Mr. **Heftel**. Thank you.

Mr. **Jennings**. My other question for Mr. Swicegood: Since you are the school district with the largest number of Indian children in it in the country, has the Office of Education ever reviewed the participation of Indian children within your school district in regular services to fulfill the requirement in the law that Indian chldren must particpate on an equitable basis with other children in the school district in the regular education program?

Dr. **Swicegood**. To the best of my knowledge, we have never had a specific visit from the Office of Education. We are, naturally, audited every year in terms of program, in terms of financial accountability, through the State, and then also through the Federal programs.

Mr. **Jennings**. Are not most of those fiscal audits though, not program audits in terms of trying to determine whether Indian chldren are in schools with lower or higher per-pupil expenditures or teacher-pupil ratios, or whatever?

Dr. **Swicegood**. Well, it is actually both.

The physical audit naturally is required in the State of New Mexico each year, and in terms of program audit, as you well know, when you do make up a project or proposal and so forth, this does have to be submitted to a Federal agency and they do approve your project or proposal and the budget for that particular proposal. So I would asume that this is their auditing in terms of program control.

Mr. **Jennings**. Thank you.

Mr. Bobo, one last question.

Do I understand correctly that you are receiving some money for handicapped children of military parents?

Mr. **Bobo**. Yes, that is right.

Mr. **Jennings**. If we could make this distinction very clear on the record, it has been somewhat alluded to earlier but not stated explicitly. When you receive that money, what must you do with the 50 percent extra payment which you receive for those handicapped chldren?

Mr. **Bobo**. It is my understanding that with this extra money that we receive as a result of this, if we are putting in from local sources more than this, we can offset this within our accounting system.

Mr. JENNINGS. You can offset it and you attribute it to handicapped children's program?

Mr. BOBO. That is right.

Mr. JENNINGS. But the dollar does not actually have to be tracked to the child, just as long as the handicapped child is in an educational program meeting the handicapped child's needs and you have attributed the 50 percent to your handicapped program, that suffices?

Mr. BOBO. That is right, it goes to the program.

Mr. JENNINGS. Whereas, with the low-rent public housing, you must be able to track the dollar down to a local school where you are offering a compensatory education program?

Mr. BOBO. Yes, the specific program within the system or local school with that child.

Mr. JENNINGS. Thank you.

Thank you, Mr. Chairman.

Mr. HEFTEL. Thank you very much.

Mr. Buchanan, do you have any additional remarks or questions?

Mr. Kildee.

Mr. KILDEE. I have followed your questions and Mr. Jennings' questions very carefully and I have no questions of my own.

Mr. HEFTEL. Mr. Kildee is a former educator so he would be in a position to track very easily what we have been doing.

We will reconvene tomorrow morning at 9:30.

Thank you.

[Whereupon, at 11:50 a.m., the subcommittee recessed, to reconvene at 9:30 a.m., Wednesday, June 29, 1977.]

[Additional material submitted for the record follows:]

McLaughlin School District 15-2

W. O. RORVIG, Supt.

Board of Education
Vern Rath, Chairman
Orville Hepperle, Vice Chairman

McLAUGHLIN, SOUTH DAKOTA 57642
Telephone 823-4482

Randy Lausing, Business Mgr.

Byron Dale, Member
Pius Held, Member
Carroll Steier, Member

INFORMATION FOR HEARINGS
IMPACT AID

McLaughlin School District 15-2, McLaughlin, South Dakota is located in the center of the Standing Rock Indian Reservation. Our school at present has an enrollment of 663 students and of this number 45% are Indian students. Forty Eight percent of our land in the district is tribal or federal lands, hence no taxes.

We are able to raise on a local level with maximum levy, about $300,000.00 and with all local and state monies, we find ourselves short about $225,000.00 which at present is the monies we are receiving from 874. There is no possible way our district can operate without some form of replacement capital if 874 monies are not available. We either have to cut back our programs by one fourth or reduce our faculty by a similar amount.

I have always believed that the federal government should pay us so much per acre of land in rural areas in lieu of taxes. Set the rate at 75 cents per acre and I think most districts in this state would get ample monies, in our case it would be about the same. I have no idea how to handle federal installations, air force bases and other impacted areas in cities, but I do feel rural states can get by alright by a payment per acre of non taxable land in their district.

Public school districts with large numbers of Indian students are doing a service for the federal government in educating their wards and there is no reason to write us off. All the government has to do is quite their foolish spending in education and the building of multi-million dollar complexes when one third of the money would be ample. I am referring to Indian BIA schools in South Dakota.

McLaughlin School District 15-2

W. O. RORVIG, Supt.

Board of Education
Vern Rath, Chairman
Orville Haggerie, Vice Chairman

McLAUGHLIN, SOUTH DAKOTA 57642
Telephone 823-4482

Randy Lauseng, Business Mgr.

Byron Dale, Member
Rus Held, Member
Carroll Slater, Member

Our schools are victims of pressure groups who have the money and time to find sources of revenue and influence Legislators in Washington. The only influence peddling we have time for is writing letters to members of the house and senate in hope that someone hears our pleas.

For years the government has not assumed the liability in dollars for educating the Indian children and schools even with state aid have not been able to break even on indian students. The government seems to find in their heart and minds reasoning to give all other federal educational programs money as long as it does not go into the basic school budget. These specials are nothing but a pain and what we need is some real support and start doing away with the three fourths of the agencies and give the schools the money they need or get out of the program so we know where we stand from year to year.

Sincerely,
W O Rorvig
W. O. Rorvig, Supt.

BOARD OF EDUCATION
OF THE CITY OF NEW YORK
110 LIVINGSTON STREET
BROOKLYN, N.Y. 11201

IRVING ANKER
CHANCELLOR

July 12, 1977

Honorable Carl Perkins
Chairperson, Committee on
Education and Labor
House of Representatives
Washington, D.C. 20515

Dear Mr. Perkins:

Re: Statement for Inclusion in Testimony Relating to Hearings on Impact Aid

Enclosed is a statement that I shall appreciate having included in the testimony relating to the hearings on Impact Aid.

Any support you can give in making certain that this source of greatly-needed federal assistance is continued will be appreciated.

Very truly yours,

Irving Anker

Irving Anker
Chancellor

IA:hw
Enc.
cc: Members of the Board
Bernard R. Gifford, Deputy Chancellor
Harold Siegel, Secretary
Executive Directors
Helene M. Lloyd, Assistant Superintendent
Selected Staff

BOARD OF EDUCATION OF THE CITY OF NEW YORK
110 Livingston Street, Brooklyn, New York 11201

STATEMENT BY IRVING ANKER, CHANCELLOR, NEW YORK CITY PUBLIC SCHOOLS, TO THE COMMITTEE ON EDUCATION AND LABOR, 6/27/77, AT THE HEARINGS ON IMPACT AID

Mr. Chairman, Members of the Committee on Education and Labor, I appreciate this opportunity to present to you basic facts that underscore the urgent need in this City and in other cities across the nation for the continuation of the Impact Aid program, especially the Low-Rent Public Housing provisions of the Act. As you are aware, it has been the policy of the Federal Government to provide financial assistance to Local Education Agencies in areas affected by Federal activities, which result in the loss of revenue to the LEA and the expenditure of extra tax-levy money in support of children where families are associated with these activities.

The following information supports the losses referred to above:

1. The assessed value of Federally-aided housing in New York City is about $1 billion. The estimated annual loss in tax revenues for these properties is $79,534,000.
2. There are 145 other parcels of Federal property amounting to $580 million in assessed value for which no tax revenues are collected.
3. In addition, located in New York City are international properties valued at approximately $118 million on which no taxes are paid. Included in this group is the United Nations.
4. Total taxes lost from exemptions granted to Federal and international properties could total $130 million annually on $1.7 billion worth of property.

We are very concerned to learn that President Carter is requesting the elimination of all category "B" children, including Low-Rent Public Housing children, from the Impact Aid program. According to the Office of Education, it is estimated that this loss would cost New York City $19,819,814 for FY 78.

You will recall that the Low-Rent Public Housing provisions of Impact Aid were originally approved in order to compensate urban districts, as New York City, for the elimination of ESEA Title I Part "C" (concentration grants) and for the decreasesin allocation under the ESEA Title I formula approved in 1974. Please note the following reductions in ESEA Title I Part "A" funds since 1974 and the total elimination of Part "C" funds since 1976.

ESEA TITLE I

S.E.D. Allocations to New York City

FISCAL YEAR	TITLE I PART "A"	TITLE I PART "C"	TOTAL LOSS	
1974	$154,351,189	$7,496,528		0
1975	131,198,508	3,607,761	1974-1975 A&C	$27,041,448
1976	117,663,003	-0-	1974-1976 A&C	44,184,714
1977	114,942,228	-0-	1974-1977 A&C	46,905,489
Total Cumulative Loss of Title I Funds, "A" & "C" since 1974	$ 99,249,828	$18,881,823	"A" & "C".............	$106,746,356

IMPACT AID

FISCAL YEAR	NUMBER OF PUPILS	CATEGORY	ENTITLEMENT (Tiers I&II)
1976	1,321	3(a)(1) LRH	$ 339,941.42
	132	3(a)(2) LRH	1,418.07
	92,714	3(b)(1) LRH	11,929,447.90
	968	3(b)(2)(A) LRH	124,551.81
	4,925	3(b)(2)(A)	1,343,583.38
	243	3(b)(2)(B)	54,776.61
	1,015	3(b)(3)	323,837.32
	16	3(b)(3)Handicapped	7,657,80.
TOTAL	101,334		$ 14,125,214.31

Clearly Low-Rent Public Housing children constitute our largest category of children. The Low-Rent Public Housing money in New York City has been used in accordance with proposed Impact Aid Regulations; i.e., to expand our existing Title I programs in reading, mathematics, and bilingual education to children in ESEA Title I eligible target areas.

You will again recall that the purpose of Impact Aid is to compensate school districts for tax revenues lost by the presence of Federal property. The children who live in Federal Housing projects are often welfare recipients with language difficulties. These are the same children who cost additional money to educate because they possess special educational needs. Many of their parents come from foreign countries and cities outside of New York.

We respectfully urge your support for the following recommendations:

1. Support full funding for all categories of Impact Aid children in FY 78.
2. Reject President Carter's proposal to eliminate funding of Category "B" children, including Low-Rent Public Housing.
3. Support full funding through Tier III so that public housing children can get the remaining 75% of theirentitlement.
4. Raise the entitlement level for funding Low-Rent public housing pupils in Tier II payments.
5. Include an additional 25% entitlement for Low-Rent public housing pupils in Tier II payments.
6. Include payment for children connected with foreign properties under Impact Aid. It is estimated that the New York City public schools have 600 children whose parents are connected with the United Nations or foreign embassies.
7. Count all handicapped pupils as one-and-a-half times a regular child when computing Impact Aid. The higher costs of special education programs are associated with the type of handicapped to be served not with the type of family membership.
8. Include payment for children of employees of tax-exempt postal facilities.

On behalf of the children of the City of New York, I want to urge your serious consideration for the adoption of the above recommendations. During this period of declining tax bases in urban areas, the cities can ill-afford to lose this program which has just begun to recognize the needs of Low-Rent Public Housing children.

Your support in this urgent matter affecting the education of many children in our City is greatly appreciated.

Very truly yours,

Irving Anker
Chancellor

IA
cc: Members of the Board
Bernard R. Gifford, Deputy Chancellor
Harold Siegel, Secretary
Presidents, Community School Boards
Community/Staff Superintendents
Secretaries, Community School Boards
Executive Directors
Directors of Reimbursable Proc
Elizabeth Clark, CSB Liaison
Selected Staff

PART 5: IMPACT AID

WEDNESDAY, JUNE 29, 1977

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor.
Washington, D. C.

The subcommittee met, pursuant to notice at 9:30 a.m., in Room 2175, Rayburn House Office Building, the Hon. Carl D. Perkins presiding.

Members present: Representatives Perkins, Blouin, Mottl, Kildee, Quie, and Goodling.

Staff present: John F. Jennings, majority counsel; Nancy L. Kober, staff assistant; Christopher T. Cross, Senior Education Consultant.

Chairman **Perkins**. The committee will be in order.

This is a continuation of our hearings on the Impact Aid Legislation. In fact, this is our second week of hearings. I am delighted to welcome all of you interested people to the hearings this morning.

I will recognize our colleague from North Carolina, Charlie Rose. I don't think we have had a more ardent supporter in the United States Congress of this legislation and all educational legislation. Congressman Rose from North Carolina has appeared before this committee on this special legislation for the impacted areas of the country on numerous occasions in the past.

The first year he was in the Congress he put in an appearance and continually thereafter.

STATEMENT OF THE HON. CHARLES G. ROSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA, ACCOMPANIED BY EVERETT L. WATERS, SUPERINTENDENT, ONSLOW COUNTY SCHOOLS; CHARLES DAVIS, SUPERINTENDENT, FAYETTEVILLE CITY SCHOOLS; MARK HENNING, SUPERINTENDENT, WAYNE COUNTY SCHOOLS AND JACK BRITT, SUPERINTENDENT, CUMBERLAND COUNTY SCHOOLS.

Mr. **Rose**. Thank you, Mr. Chairman. I appreciate the opportunity to make a few brief comments. You and I have talked many times about this subject privately and in public hearings and I believe you know of my concern about Category B payments of Public Law 874, and our concern if they would be phased out.

I would like to introduce, just for the purpose of introduction, four gentlemen from eastern North Carolina who are accompanying me today and I would like to ask them to stand if they would.

Everett L. Waters, Superintendent of Onslow County Schools; Charles Davis, Superintendent, Fayetteville City Schools; Mark Henning, Superintendent, Wayne County Schools and Jack Britt, Superintendent, Cumberland County Schools.

Chairman PERKINS. Let me welcome all of you distinguished gentlemen here. Your congressman is one of the greatest advocates of this program. I am sure he will see that it survives.

Mr. ROSE. Mr. Chairman, I thank you for letting me insert my testimony in the record at this point.

[The prepared statement of Mr. Rose follows:]

TESTIMONY

GIVEN BY

CONGRESSMAN CHARLES G. ROSE, III (D-N.C.)

BEFORE

LABOR - HEALTH, EDUCATION AND WELFARE COMMITTEE

CHAIRMAN - CARL PERKINS (D-KY.)

FEDERAL ASSISTANCE TO SCHOOLS IN

FEDERALLY AFFECTED AREAS

FISCAL YEAR 1978

Mr. Chairman and Members of this distinguished Committee, we appreciate this opportunity to appear before you to present testimony supporting Impact Aid with specific emphasis on Category B payments to local school districts.

According to this Administration request, the appropriations for Category B payments of P. L. 874 would be phased out. I wish today to oppose this drastic, unwarranted, and unwise planned reduction, to share with you my reasons for such opposition, and to urge you to reject the Administration's request.

Concentrations of these federal employees in local communities across the country place additional demands for services upon the communities. However, the ability of the local communities to provide the additional services is reduced due to tax-exempt federal installations which result in a lower local tax base.

School districts receive the bulk of their revenues from community property taxes. Residential property accounts for about half of the tax receipts; the other 50 per cent comes from commercial property. Thus, families that reside and/or work on federal property deprive the local community, and more important, the schools, of much needed income.

The "impacted area" program of financial assistance to school districts where large numbers of children of federally connected parents attend school was established in the early 1950's with the passage by the 81st Congress of Public Law 815 and Public Law 874.

Public Law 874 authorizes the payment of funds for the "maintenance and operation" of public schools in federally affected areas. It is the need for the continuation of this part of the program that is the critical concern of the school districts which have depended on it for essential operational support for twenty years.

The principle which was the basis for the creation of this program is a simple one. The law recognizes that when a facility, usually military, is built in an area by the federal government, land on which it is built becomes non-taxable property, as do the buildings and equipment which constitute the facility. It further recognizes that when there is a resulting influx of people who require availability of schools for their children there is an impact of need which must be met by the local educational agency. When this agency is largely dependent upon local government for its operational and maintenance requirements, and local government depends on property tax revenues as a source for its funds, there is then a sharp disproportion between need and availability of support.

Public Law 874 bases payments on two tax-loss factors: the residence property in which the family lives, and the establishment property where a parent works or to which he is assigned. Thus, a child who resides on federal property and whose parent works on or is assigned to federal property is considered an "A" category child; and payment is made to the school district at one-half the national average of school cost per child.

A child whose family resides off the federal installation and whose parent works on or is assigned to the federal installation, or whose family resides on and the parent works off the installation, is designated a "B" category pupil; and payment is made to the school district at the rate of one-fourth the national average cost per child (one-half the "A" payment). Thus, the law recognizes the two halves of the impact or tax loss and provides for payment accordingly.

Currently, "A" category pupils are paid at 90% of entitlement and "B" category pupils are presently being paid at only 60% of entitlement. These two percentages should be equal.

In the context of the overall situation with respect to the impacted area program, certain observations specifically pertinent to Category "B" can and should be made.

First, although our federally connected parents pay taxes on the homes they live in, a great many of them live in house trailers; and these are taxable only as personal property. However, if the individual chooses not to become a legal citizen of the county, and most of them do, he pays no tax on personal property.

The point should be made here that even though tax may be paid on the residence of the family there is still no tax paid by the installation where he works or to which he is assigned; and the Impact formula takes that into account as described above. Payment is based on only 50% for children of this family because only the tax loss on the installation is considered.

Secondly, it seems only reasonable that our government consider the bargain it is getting under Impact, especially in regard to the military connected child. If a comparison is made between what it pays to military base schools and the formula amount under the Impact program the difference is considerable -- $1,278.61 on the one hand and $226.20 on the other. If these children now attending our schools were to be picked up and transported to base schools and buildings, staff, materials and equipment were provided for them the extra cost would indeed be fantastic.

The Administration is promoting the argument that Category "B" payments be phased out since "B" children either reside on non-federal land or have parents who are employed on non-federal land and there is a local tax base to help offset the costs of their education. Unfortunately, that statement shows little concern for the realities of the situation or the welfare of the schoolchildren who will be most directly affected.

In Cumberland County we have two large military bases -- Fort Bragg and Pope Air Force Base. Were we able to collect taxes on this property we would have an additional tax base of approximately $325,064,400. With this additional tax base we could undoubtedly finance our school systems. However, as you gentlemen know, federal property is not taxable, and it is simply not true that there is a sufficient local tax base to offset the costs of educating the children under discussion.

What happens if the Administration's request is granted? For the most part we all lose. The children get a poorer quality of education at a time when there is a crying need for improved educational opportunities. Services have to be cut or eliminated. It is our children who will be the losers.

But what about the property owner? He loses, too, for inevitably local government will be forced to make up for this loss of revenue, and this most likely means an increase in property taxes. This increase would come at a time when the taxpayer is already overburdened. In short, the proposed "phase out" of Category "B" Payments to schools in federally-affected areas means increased taxes and the delivery of fewer services, and those who will be cheated and hurt the most are those we should most want to help -- schoolchildren. I urge you to realize the foolishness of this Administration request and act decisively by rejecting this proposed phase out of Category "B" Payment.

Mr. **Rose**. I would like to have Jack Britt come to the microphone and tell you in about two minutes the impact that this could have on us from Cumberland County and then we will ask to be excused.

Mr. **Britt**. We appreciate this opportunity to speak to the committee. Impact aid in North Carolina, and especially in Cumberland County, just means so much to the impact to our committee. We have a school system of 37,000 pupils. One third is impacted. We have about 12,500 students that we receive impact aid for. All of these are B category students. Without this, our school system would just be in an uproar. It would affect the salaries of 1900 teachers and maybe the jobs of 200 teachers directly.

If you look at what the Federal government is getting for the education of these children, it is shocking. We have a military installation within our county. The Federal government pays a minimum of $1300 per child for the education of these children.

The B children in our schools, the Federal government pays only $200 per child and we just need this program to continue. If you compare the impact program with other educational programs, you find that—we have one person who administers this $2.5 million program. In other programs you find directors and other administrative personnel. When those Federal dollars finally get to the classroom, they are greatly reduced, but almost one hundred percent of the impact aid money reaches the child in the classroom.

Chairman **Perkins**. Thank you very much, Mr. Britt. I can see the reason that you are here with your able representative this morning because of the great need in your area for impacted area funds. In other words, you could not do without these funds.

Mr. **Britt**. Absolutely.

Chairman **Perkins**. Is there anyone else you want to call, Mr. Rose?

Mr. **Rose**. Mr. Chairman, I think Jack Britt has very eloquently spoken the same thing all these gentlemen would say. I thank you very sincerely for letting me interrupt your hearing.

Chairman **Perkins**. Thank you very much, Congressman Rose.

We will now hear the representative of the Office of Education, Dr. Stormer.

STATEMENT OF WILLIAM STORMER, DIRECTOR, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U.S. OFFICE OF EDUCATION, HEW

Mr. **Stormer**. Before proceeding with the testimony today, I would like to say that yesterday I discussed with Committee Counsel, Mr. Jennings, a request that the Office of Education be permitted an opportunity to clarify the record on certain items. For example, we believe that some of the topics discussed yesterday require further explanation. We therefore request permission to provide a statement and comment in writing on selected aspects of testimony offered on the impact aid program by others where we believe it is essential to make the record clear.

Chairman **Perkins**. Without objection your statement will be inserted in the record.

[The statement referred to follows:]

Mr. Mueller made mention on June 23 of the fact that Douglas School District is an applicant for assistance under section 3(d)(2)(B) and that funds are generally available after the school term has ended. I would like to explain that this section is one intended to aid a heavily impacted school district to balance its budget. The Division makes payments to applications under this on the basis of the verification of actual financial data, evidence that the school district is making a reasonable tax effort, and the recommendation of the Regional Program Officer relative to these facts. We do not believe it prudent to make determination of eligibility and make payments based upon estimated data provided in an initial application. Sometimes due to various reasons beyond our control the Program Officers are not able to make an on-site review or secure the necessary facts within the period of the school term, thus late payments do occur.

I would like to comment on a statement made by Dr. Duncan of Highland Falls, New York on June 23. He mentioned that a study of several years ago indicated that the West Point Section 6 school was spending about $1,800 a pupil at the same time that his district was receiving about $800 for an A student. He said that his citizenry felt that the difference would have to be made up by the state of New York and that this wouldn't be a fair thing for the community. He is quite right in having stated earlier that it is our policy to attempt to get local school districts to take over Section 6 schools wherever possible. We believe firmly that education is a State and local responsibility and that a State should provide the same assistance to every child within its boundaries regardless of that child's residence on Federal or non-Federal property. In 1977, the approximate per pupil cost at the West Point Section 6 school is $1,977. The amount for an A pupil at Highland Falls is $1,108 of which 90% or $997 will be funded by the appropriation. The estimated per pupil cost at Highland Falls for 1977 is $2,249 of which $1,211 is expected from the State, leaving an average local share of $1,038.

I would like to comment, also, on Dr. Fish's remarks of June 28 relative to low rent housing funds to be expended inaccordance with Title I mechanisms by local school districts. We agree that the Act did not specifically state that these monies must be spent in accordance with Title I procedures. The Act did state that such funds must be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low-income families. The Conference Report and discussions in the Congress during the passage of the Education Amendments of 1974 made it very clear to the Office of Education that monies to be paid to local school districts for children associated with low rent housing must be spent to support Title I or Title I type programs. Further, the Congress expressed rather explicitly the priorities to be followed in approving such program proposals and the fact that State Educational Agencies should monitor the expenditure of funds for public housing children. Consequently, the Division of School Assistance in Federally Affected Areas worked quite closely with the Division of Education for the Disadvantaged to establish appropriate procedures to assure that these monies served the purposes expressed in the Act by the Congress. Those procedures, of necessity, follow closely Title I requirements.

June 29, 1977

Dr. Fish's comments on page 406 (Lines 519-525):

"The final statement regards the process mentioned here. School districts were not adequately consulted in the process mentioned here. There was one meeting at the Office of Education—I know because I invited myself. The word was passed to the State Departments to bring somebody to the meeting. The meeting did not occur until we brought this to the attention of the Office of Education and only a few people from eight States were invited. There were fewer than 20 districts in the room when this took place."

The following comment should be made:

Representatives of local school districts have had ample opportunity to review the interim regulations. Prior to publiction of proposed rules, four regional meetings were held where the legislation was discussed. A presentation was made to a national organization of districts receiving payments under Public Law 81-874 and at other conferences including a special conference of eight States in February, 1975. Proposed rules were published May 1, 1975 and the public was invited to comment. Interim regulations were published June 25, 1976, and again comments were invited. Final Regulations and a proposed rule were published March 22, 1977. The State education agencies were supplied copies of each publication in the Federal Register and were requested to circulate these to applicant school districts. Other comments have been made through letters and telephone communication. It is believed that adequate opportunity has been provided for interested parties to review and comment on these regulations.

Mr. **Stormer**. A task group was established within the Office of Education shortly after the enactment of Public Law 93-380 in 1974 to deal with the equalization amendments to Public Law 874 and during that period of time, subsequent by, we have met with state and local representatives.

Dr. Thomas Johns is a specialist in school finance and was a member of the School Finance Task Force, which operated within the Office of Education in the early 1970s.

He is a member of the school finance unit that deals with the Public Law 93-380 operating program to assist state educational agencies to design programs to equalize expenditures. Because of his continuing activity of this task group, we have requested that he present the testimony today.

Chairman **Perkins**. Without objection, all your prepared statements will be inserted in the record. We will hear you all as a panel and then open up for questioning.

[The prepared statement of Dr. Johns follows:]

FOR RELEASE UPON DELIVERY

Statement by
Dr. Thomas L. Johns
Specialist, School Finance
Bureau of Elementary and Secondary Education
U.S. Office of Education
Department of Health, Education, and Welfare
Before the
Subcommittee on Elementary, Secondary, and Vocational Education
Committee on Education and Labor
House of Representatives
Wednesday, June 29, 1977
9:30 a.m.

Dr. Johns is accompanied by:

William Stormer, Director, Division of School Assistance in Federally Affected Areas, Bureau of Elementary and Secondary Education, U.S. Office of Education, HEW

Linda Chavez, Special Assistant to the Deputy Assistant Secretary for Legislation (Education), HEW

Harry L. Phillips, Deputy Assistant Commissioner for Legislation, U.S. Office of Education, HEW

Implementation of the Equalization Provision of Section 5(d)(2) of P.L. 81-874

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you to discuss the plans and activities for the implementation of the equalization provision of P.L. 81-874. In order to place the equalization provision in the correct perspective it is useful that a brief background statement be provided. During the 1960's a number of States added provisions to their school finance laws which counted impact aid receipts as a local resource for purposes of calculating State school aid entitlements to local educational agencies. These provisons acted to reduce State aid payments. The States enacting them defended this practice on the ground that impact aid funds were provided as a payment from the Federal government "in lieu of local taxes." Therefore these payments could be counted as local wealth. Court actions were initiated to test the legality of such State withholding action. In the case of Shepeard v. Godwin a Federal District Court held that the State withholding action in the State of Virginia violated the Supremacy Clause of the Constitution. Then in 1968 P.L. 81-874 was amended to prohibit the payment of any regular impact aid funds to any school district located within a State which took these Federal payments into consideration and adjusted State aid payments accordingly. In 1974 the Impact Aid law was again amended to create a limited exception to the prohibition provision for those States which had enacted school finance laws designed to "equalize expenditures".

While the reasons given for the enactment of the exception amendment varied, the essential rationale was that Impact Aid payments to local educational agencies in States with highly equalizing finance programs constituted an unfair windfall to agencies in which the State has already made possible an adequate and equitable financial base. The Section 5(d)(2) exception provision allows States with highly equalizing programs to incorporate P.L. 81-874 funds into their school finance equalization system.

However, neither the prohibition provision (Sec. 5(d)(1) of P.L. 81-874) nor the exception provision (Sec. 5(d)(2) of P.L. 81-874) has been applied to date for several reasons.

The Congress in 1973 adopted an amendment waiving the prohibition provision for FY 1974. This waiver was enacted after the U.S. Office of Education had taken steps to terminate P.L. 81-874 payments to Kansas and North Dakota because they had enacted school finance laws which violated the prohibition provision of the 1968 amendments. The 1973 amendment subsequently was applied also to New Mexico and Maine. The controversial nature of the exception provision regulations led to unusual delays in achieving their publication and is another reason for not having implemented it. After consultation with State and local educational agencies proposed rules and regulations were published June 25, 1976, and these were republished as final regulations March 22, 1977. A major amending provision to the final regulations, which has been twice published in proposed form, still has not been published as a final rule. Because of the delay in promulgating final regulations for the exception provision, Congress adopted an amendment in 1976 which in effect again suspended the operation of the prohibition provision until July 1, 1977 for States with apparently non-conforming laws; or if final regulations had not been promulgated by this date, until such regulations were promulgated.

Since final regulations have been promulgated, we are required by law to initiate the application of both the prohibition and exception provisions on July 1, 1977. To date, we have notified five States that we intend to commence determination proceedings after July 1, 1977. Of the five States, Alaska requested the Commissioner to initiate determination proceedings. In the case of New Mexico, Kansas, North Dakota, and Maine, the Commissioner decided to initiate determination proceedings after recurring information indicated that these States intend to take account of P.L. 81-874 payments in their State school aid formulas in the 1977-78 school year. In addition Utah has requested an evaluation as to whether the State would be eligible to take into consideration 874 payments if such a provision were included in their Minimum School Finance Act.

Now I would like to turn to the provisions of the final regulations published on March 22, 1977. These regulations provide that two qualifying standards be met by a State before it is eligible to apply the provisions of Section 5(d)(2) of the Act to its State equalization program. These standards consist of a general qualifying standard and disparity standard. Additionally, a wealth neutrality standard was published in proposed form (for the second time) on March 22, 1977. When this standard becomes effective, it will serve as an alternative to the disparity standard. The final regulation for this wealth neutrality standard is now in the USOE clearance process.

These standards have been developed in light of the legislative history of Section 5(d) of the Act which indicates that the Commissioner should promulgate regulations which afford only a limited and carefully constructed exception to the prohibition rule.

The general qualifying standard requires that a State school aid program must:

--be authorized by State law for the year of determination--that is, that the program has not been determined to be in violation of law by a final court order; and,

--be a shared cost type program where the relative financial resources available to local educational agencies are taken into account in the apportionment of State equalization aid.

States such as California and Connecticut which are under final court orders regarding their school finance programs would not meet this test until the courts' requirements are satisfied. Additionally, States such as North Carolina which do not have shared cost equalization programs would not meet this initial test.

The disparity standard requires that a State must demonstrate an expenditure or revenue disparity on a per pupil basis of no more than 25 percent when the 95th and 5th percentile districts in that State are compared. In calculating the disparity, the revenues or expenditures which an LEA receives from State sources designated for special cost differentials are first excluded. Also excluded are local contributions to equalized shared costs for special cost differentials. These special cost differentials may be based on types of students, demographic, or other socioeconomic conditions the State considers in its financing program, except those used to maintain prior expenditure levels. Thus, funds for transportation, special education, and others in which the State recognizes cost differences by reimbursing a district for part or all of the costs of the program would be subtracted. Also deleted are Federal funds, other than non-accountable items such as Federal Forest Reserve Funds and Impact Aid funds not taken into account by a State. However, if a State has been counting P.L. 81-874 payments as a local resource, then these funds will be included in the calculation to the extent that they do not exceed the proportion allowed under the Act.

A disparity standard was chosen because it is a method of evaluating school finance programs in terms of equalization that has been used by both the courts and authorities in the field of school finance, and because it is believed that the phrase "equalize expenditures" focuses upon the relative availability of funds to local educational agencies for educating the children within their school systems. This standard is designed to measure equity through uniformity of resources.

Fi~~nally~~, the wealth neutrality standard WHICH WE ARE PROPOSING is designed to measure equity in terms of uniformity of wealth with which to provide resources. This standard is based on the well-researched principle that differences in local expenditures for education are significantly related to differences in local wealth, and that differences in student needs and local choice may require significantly different expenditures. We feel that a test of the degree to which a State has removed local taxable wealth advantages or disadvantages is a fair and appropriate alternative to a disparity test. The wealth neutrality standard is calculated by determining the percentage that wealth neutral revenues is of total State and local revenues for current operation. We have proposed to establish the percentage at 85 percent. While the Commissioner will initiate determination proceedings after July 1, 1977, we do not intend to issue a final determination regarding any State's eligibility under Section 5(d)(2) while the alternative test is pending promulgation as a final regulation. We will not, however, indefinately delay the issuance of final determinations if there is an extended delay in the promulgation of the amendments. In any case final determinations will be issued for the 1977-78 school year in time for proper administration of the provision.

The regulations contain an exception clause which provides that State programs which do not meet either the disparity or wealth neutrality standards may still be considered for the exemption if certain conditions are met. Before a State can be considered under the exception provision it must demonstrate that because of exceptional circumstances within the State both the disparity and wealth neutrality standards would apply unfairly in that State. Consideration under the latter clause is further conditioned upon the requirement that educational expenditures be more equalized within a State as a result of any offsetting of P.L. 81-874 payments. If a State can satisfy these initial conditions, then it can be considered in reference to specified evaluative criteria contained in the exception provision. These criteria, while judgmental in nature, have been selected as reasonable parameters of a truly equalizing State aid program.

(EMPHASIZE THIS)

Because of the difficulty of meeting the initial condition necessary for a State to avail itself of the tests set forth in this provision, it is our judgment that qualification under this provision will be an extremely rare occurrance.

In conclusion, we believe the standards just described are based on sound principles of measuring the extent to which a State has provided equal resources to school districts or the extent to which a State has provided equal access to the wealth of the State as a whole to school districts within that State. Finally, we have proposed that an exception be made in the situation where neither of the standards could be fairly applied to a State school financing program. Proper application of these standards will permit those communities which truly bear an additional tax burden caused by Federal activity to receive the benefits of payments under the Act and will avoid interference with truly equalizing State school aid programs.

Mr. Chairman this concludes my prepared statement. My colleagues and I will now be delighted to try to answer your questions.

PANEL OF DR. THOMAS L. JOHNS, SPECIALIST, SCHOOL FINANCE, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U. S. OFFICE OF EDUCATION, ACCOMPANIED BY WILLIAM STORMER, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY-AFFECTED AREAS, U. S. OFFICE OF EDUCATION; HARRY WUGALTER, SECRETARY FOR EDUCATIONAL FINANCE AND CULTURAL AFFAIRS, STATE OF NEW MEXICO, REPRESENTING EDUCATION COMMISSION OF THE STATES NATIONAL GOVERNORS' CONFERENCE, NATIONAL CONFERENCE OF STATE LEGISLATURES; DR. H. DAVID FISH, PRESIDENT, IMPACTED AREA SCHOOLS; WALLACE ODOM, ASSISTANT SUPERINTENDENT, ESCAMBIA COUNTY SCHOOL BOARD, PENSACOLA, FLORIDA AND MR. BERNELL WRIGLEY, SUPERINTENDENT OF SCHOOLS, DAVIS COUNTY SCHOOL DISTRICT, FARMINGTON, UTAH

Dr. JOHNS. Mr. Chairman, I am pleased to appear before this subcommittee to discuss the plans and activities for the implementation of the equalization provision of Public Law 81-874. In order to place the equalization provision in the correct perspective, it is useful that a brief background statement be provided.

During the 1960s a number of states added provisions to their school finance laws which counted impact aid receipts as a local resource for purposes of calculating state school aid entitlements to local educational agencies. These provisions acted to reduce state aid payments. The states enacting them defended this practice on the ground that impact aid funds were provided as a payment from the Federal government, "in lieu of local taxes." Therefore, these payments could be counted as local wealth. Court actions were initiated to test the legality of such state withholding action. In the case of *Sheperd* v. *Godwin* a Federal District Court held that the state withholding action in the state of Virginia violated the Supremacy Clause of the Constitution. Then in 1968 P.L. 81-874 was amended to prohibit the payment of any regular impact aid funds to any school district located within a state which took these Federal payments into consideration and adjusted state aid payments accordingly.

In 1974 the Impact Aid law was again amended to create a limited exception to the prohibition provision for those states which had enacted school finance laws designed to "equalize expenditures."

While the reasons given for the enactment of the exception amendment varied, the essential rationale was that Impact Aid payments to local educational agencies in states with highly equalizing finance programs constituted an unfair windfall to agencies in which the state has already made possible an adequate and equitable financial base. The Section 5(d)(2) exception provision allows states with highly equalizing programs to incorporate P.L. 81-874 funds into their school finance equalization system.

However, neither the prohibition provision, Sec. 5(d)(1) of P.L. 81-874, nor the exception provision, Sec. 5(d)(2) of P.L. 81-874, has been applied to date for several reasons.

The Congress, in 1973, adopted an amendment waiving the prohibition provision for fiscal year 1974. This waiver was enacted after the U. S. Office of Education had taken steps to terminate P.L. 81-874 payments to Kansas and North Dakota because they had enacted school finance laws which violated the prohibition provision of the 1968 amendments. The 1973 amendment subsequently was applied also to New Mexico and Maine. The controversial nature of the exception provision regulations led to unusual delays in achieving their publication and is another reason for not having implemented it.

After consultation with state and local educational agencies, proposed rules and regulations were published June 25, 1976, and these were republished as final regulations March 22, 1977. A major amending provision to the final regulations, which has been twice published in proposed form, still has not been published as a final rule. Because of the delay in promulgating final regulations for the exception provision, Congress adopted an amendment in 1976 which in effect again suspended the operation of the prohibition provision until July 1, 1977 for states with apparently non-conforming laws; or if final regulations had not been promulgated by this date, until such regulations were promulgated.

Since final regulations have been promulgated, we are required by law to initite the application of both the prohibition and exception provisions on July 1, 1977. To date we have notified five states that we intend to commence determination proceedings after July 1, 1977. Of the five states, Alaska requested the Commissioner to initiate determination proceedings. In the case of New Mexico, Kansas, North Dakota, and Maine, the Commissioner decided to initiate determination proceedings after recurring information indicated that these states intend to take account of P.L. 81-874 payments in their state school aid formulas in the 1977-78 school year. In addition, Utah has requested an evaluation as to whether the state would be eligible to take into consideration 874 payments if such a provision were included in their Minimum School Finance act.

I am also aware South Carolina has recently enacted school finance legislation which will count 874 payments as a local resource beginning next year.

Now I would like to turn to the provisions of the final regulations published on March 22, 1977. These regulations provide that two qualifying standards be met by a state before it is eligible to apply the provisions of Section 5(d)(2) of the Act to its state equalization program. These standards consist of a "general qualifying" standard and "disparity" standard. Additionally, a "wealth neutrality" standard was published in proposed form, for the second time, on March 22, 1977. When this standard becomes effective, it will serve as an alternative to the "disparity" standard. The final regulation for this "wealth neutrality" standard is now in the USOE clearance process.

These standards have been developed in light of the legislative history of Section 5(d) of the Act which indicates that the Commissioner should promulgate regulations which afford only a limited and carefully constructed exception to the prohibition rule.

The general qualifying standard requires that a state school aid program must:

be authorized by state law for the year of determination. That is, that the program has not been determined to be in violation of the law by a final court order; and,

be a shared cost type program where the relative financial resources available to local educational agencies are taken into account in the apportionment of state equalization aid.

States such as California and Connecticut which are under final court orders regarding their school finance programs would not meet this test until the courts' requirements are satisfied. Additionally, states such as North Carolina, which do not have shared cost equalization programs, would not meet this initial test.

The disparity standard requires that a state must demonstrate an expenditure or revenue disparity on a per pupil basis of no more than 25 percent when the 95th and 5th percentile districts in that state are compared. In calculating the disparity, the revenues or expenditures which an LEA receives from state sources designated for special cost differentials are first excluded.

Also excluded are local contributions to equalized shared costs for special cost differentials. These special cost differentials may be based on types of students, demographic, or other socioeconomic conditions the state considers in its financing program, except those used to maintain prior expenditure levels. Thus, funds for transportation, special education, and others in which the state recognizes cost differences by reimbursing a district for part or all of the costs of the program would be subtracted. Also deleted are Federal funds, other than non-accountable items such as Federal Forest Reserve Funds and Impact Aid funds not taken into account by a state.

However, if a state has been counting P.L. 81-874 payments as a local resource, then these funds will be included in the calculation to the extent that they do not exceed the proportion allowed under the Act.

A disparity standard was chosen because it is a method of evaluating school finance programs in terms of equalization that has been used by both the courts and authorities in the field of school finance, and because it is believed that the phrase "equalize expenditures" focuses upon the relative availability of funds to local educational agencies for educating the children within their school systems. This standard is designed to measure equity through uniformity of resources.

The wealth neutrality standard which we are proposing is designed to measure equity in terms of uniformity of wealth with which to provide resources. This standard is based on the well-researched principle that differences in local expenditures for education are significantly related to differences in local wealth, and that differences in student needs and local choice may require significantly different expenditures.

We feel that a test of the degree to which a state has removed local taxable wealth advantages or disadvantages is a fair and appropriate alternative to a disparity test. The wealth neutrality standard is calculated by determining the percentage that wealth neutral revenues is of total state and local revenues for current operation. We have proposed to establish the percentage at 85 percent. While the Commissioner will initiate determination proceedings after July 1, 1977, we do not intend to issue a final determination regarding any state's eligibility under Section 5(d)(2) while the alternative test is pending promulgation as a final regulation. We will not, however, indefinitely delay the issuance of final determintaions if there is an extended delay in the promulgation of the amendments. In any case, final determintaions will be issued for the 1977-78 school year in time for proper administration of the provision.

The regulations contain an exception clause which provides that state programs which do not meet either the disparity or wealth neutrality standards may still be considered for the exemption if certain conditions are met. Before a state can be considered under the exception provision it must demonstrate that because of exceptional circumstances within the state both the disparity and wealth neutrality standards would apply unfairly in that state.

Consideration under the latter clause is further conditioned upon the requirement that educational expenditures be more equalized within a state as a result of any offsetting of P.L. 81-874 payments. If a state can satisfy these initial conditions, then it can be considered in reference to specified evaluative criteria contained in the exception provision.

These criteria, while judgmental in nature, have been selected as reasonable parameters of a truly equalizing state aid program.

I emphasize this: Because of the difficulty of meeting the initial condition necessary for a state to avail itself of the tests set forth in this provision, it is our judgment that qualification under this provision will be an extremely rare occurrence.

In conclusion, we believe the standards just described are based on sound principles of measuring the extent to which a state has provided equal resources to school districts or the extent to which a state has provided equal access to the wealth of the state as a whole to school districts within that state.

Finally, we have proposed that an exception be made in the situation where neither of the standards could be fairly applied to a state school financing program. Proper application of these standards will permit those communities which truly bear an additional tax burden caused by Federal activity to receive the benefits of payments under the Act and wil avoid interference with truly equalizing state school aid programs.

Mr. Chairman, this concludes my prepared statement. My colleagues and I will now be delighted to try to answer your questions.

Mr. Blouin. The Chairman indicated we would go through all the testimony from all of the panelists and then proceed with the questions. All of you can feel free to summarize your statements. If you wish the entire statement will be inserted in the record.

Mr. Harry Wugalter. Is that pronounced properly?

STATEMENT OF HARRY WUGALTER

Mr. Wugalter. I have a prepared statement and exhibits to submit for the record which I would like to submit at this time.

[Mr. Wugalter read the following statement:]

STATEMENT OF HARRY WUGALTER AND SENATOR JOSEPH C. HARDER

SUBCOMMITTEE ON ELEMENTARY AND SECONDARY EDUCATION
AND VOCATIONAL EDUCATION

COMMITTEE ON EDUCATION AND LABOR
U. S. HOUSE OF REPRESENTATIVES

JUNE 29, 1977

Mr. Chairman:

I appreciate having an opportunity to appear before the Subcommittee today. I am Harry Wugalter, Secretary for Educational Finance and Cultural Affairs, State of New Mexico, and am here today representing the Education Commission of the States, of which our Governor, Jerry Apodaca, is the immediate past Chairman, and the National Governors' Conference, in which Governor Apodaca is a member of the Human Resources Committee. I also offer this statement on behalf of Senator Joseph C. Harder, Chairman of the Kansas Senate Education Committee and the National Conference of State Legislators.

I have been concerned with this issue for a number of years because I had significant responsibility for the development of New Mexico's school finance reform program which was enacted in 1974. As a result of this legislation, New Mexico has a highly equalized state aid system with approximately eight-five percent of elementary and secondary expenditures coming from state aid. I should note that our state meets the tests which have been established by the Office of Education for recognizing impact aid payments as local resources. Thus, it is not a parochial concern which brings me here today; rather, we are concerned that the current federal posture on this issue is confusing for states trying to deal with the problem, unduly complex and not well focused on the point at issue. I should also note that we have no basic quarrel with the statute as it is now written if properly applied and interpreted.

My testimony addresses the need for clarification of Congressional intent relative to Section 5(d)(2) of P.L. 81-874. This section of the Impact Aid program was modified by the Education Amendments of 1974 (P.L. 93-380) to state those circumstances under which states may recognize federal pyments to local education agencies under the impact aid program in determining states aid to such LEA's. I intend to inform the Subcommittee about the problems encountered in attempting to meet proposed regulations drawn and issued by the Office of Education. The Congress should include in the record a clear statement of legislative intent in order that our state and federal partnership operate effectively. The ECS and NCSL will be pleased to work with you on this issue.

The basic reason for the impact aid program is that local school districts that include federal installations do not receive property tax revenue from these tax exempt areas and thus have a limited tax base to support an adequate school program.

Most states provide aid to LEA's with some recognition of the LEA's capacity to raise revenues. States with highly equalizing school finance systems provide significant state aid which is allocated inversely to the financial capacities of LEA's relative to the programs they finance. In such states an LEA which receives federal impact aid funds may be compensated twice for its limited tax base -- once by the federal government in recognition of the exclusions from its tax base associated with federal installations and a second time by the state which provides assistance also geared to that reduced tax base. Unless the state aid formula recognizes the federal payments, the LEA enjoys a "windfall" at the expense of other state and federal taxpayers.

Recognizing this, some state legislatures, in fashioning equalization programs, provided that some or all impact aid payments should be treated as local revenues for the purpose of computing state aid. Prior to 1973 such provisions in state laws were in conflict with Section 5(d)(2) of P.L. 81-874 which prohibited recognition of such federal aid as local resources. This conflict between state and federal law existed in Kansas, Maine, New Mexico and North Dakota. These states objected to this provision in federal law and pointed out that it was an impediment to state equalization at the very time that various elements of the Executive Branch and Congress were encouraging states to reform their school aid systems.

As a result, this committee recognized this contradiction and in 1974 P.L. 81-874 was amended to provide an exemption from the general prohibition and permit a state to recognize impact aid as a local resource in those states that have a school finance program "designed to equalize expenditures for free, public education among the local education agencies of that state." The Commissioner of Education was given authority to define the terms "state aid" and "equalize expenditures" by regulation. Thus, the conditions under which a state could recognize impact aid as a local resource was left to the Commissioner. Further, the statute provides that a state may consider impact aid as local resources "only in proportion to the share that local revenues covered under a state equalization program are of total local revenues."

Since the amendment of the statute in 1974, the Office of Education has been trying to develop regulations to define the phrase "equalize expenditures." Most recently OE issued effective regulations establishing two means whereby a state can qualify. There are a disparity test and a more subjective "commissioner discretion" approach. In addition, on March 22, 1977, OE issued a Notice of Proposed Rulemaking to add an additional test based on a concept of "fiscal neutrality."

Recognizing that the long delay in the development and issuance of regulations had created uncertainty and potential hardship in the affected states, the Congress, in the Education Amendments of 1976, enacted a "hold harmless" provision that is effective through June of 1977. Accordingly, the standards set by regulation will become effective with the 1977-78 school year.

ECS has worked closely with the National Conference of State Legislatures and the National Governors' Conference in advocating the development of regulatory standards that are equitable and addressed to the elimination of the "windfall" problem.

Most of the difficulties that have arisen in the development of regulations stem from the fact that the Office of Education has attempted to use the impact aid program in a negative manner to compel states to equalize, rather than addressing the more limited problem of eliminating the potential for windfalls. This negative approach tries to superimpose uniform conditions where none can exist due to the large differences among states' revenue and taxation policies. The statute as amended is in our view intended not to be a federal incentive program but is to remove an impediment for states which, at their own iniative, are undertaking school finance reform programs. Positive federal incentives to encourage states to equalize exist in other statutes -- primarily Section 842 of P.L. 93-380.

The position taken by the Office of Education is that for a state program to recognize any impact aid payments in its school aid program it must have an overly stringent equalization program for all districts. The Office of Education has adopted two sets of criteria under which states may count impact aid as local resources and has proposed a third. Let me reiterate: these regulations do not reflect state financial realities.

The first test in the regulations by the federal government is a disparity test in which there should be no more than twenty-five percent difference between per pupil expenditures at the 5th and 95th percentiles of districts within a state. Funds spent for disadvantaged, handicapped, bilingual or other special populations may be excluded in making these computations. This is a poor test of equalization because the differences in the size of the districts and in the kinds of pupils being served (other than the differences included above), might require greather than a twenty-five percent difference in expenditures to provide an equalized education for pupils. If a state has a small number of districts of fairly uniform size with similar kinds of pupils, then the disparity test proposed by the federal government would be appropriate.

However, this is not the case. To the extent that state finance systems recognize the need for different expenditures in different-sized districts and different levels of expenditures for different kinds of pupils, they may fail the current disparity test. Indeed, current research by the National Conference of State Legislators (NCSL) indicates that in several states per pupil spending disparities decline dramatically when very small districts are excluded from the existing disparity test.

Secondly, the regulations provide that the Commissioner may determine that a state qualifies under "exceptional circumstances" which are largely subjective. This loophole helps OE out of tough situations but does not provide a standard which any state can objectively assess.

A third set of criteria is proposed as a "fiscal neutrality" test, which requires that at least eighty-five percent of the state and local expenditures for education be either equalizing for fiscally neutral. This proposal was published in the Federal Register of March 22, 1977, but has not been finalized. This test purports to measure the amount of total spending which is equalized. If no more than fifteen percent (as proposed) is unequalized, the state qualifies. The fiscal neutrality test as currently modified, however, would seriously impair a state's ability to design equalizing aid plans which relieve school tax burdens in poorer communities and which provide prudent state controls on the growth of school taxes and spending.

All of these tests measure whether a state's total program is equalizing -- as defined by someone in the Office of Education -- rather than whether LEA's receiving 874 funds are fairly treated.

Moreover, it should be recognized that the penalties under the statute run to the LEA, not the state, and this leads to a very strange situation. The states that have this problem are concerned with starting a fair and equitable finance system for all districts. Under present law if a state's aid system takes into account impact aid but does not qualify under the OE regulations, the ultimate penalty is for the Commissioner to terminate payments to impacted districts. As we noted in recent comments on the pending rulemaking, this is the equivalent of doing away with the potential for bank robbery by eliminating banks.

In all fairness the lengthy delays in the development and promulgation of regulations and the overly complex regulations which have emerged from this process stem from confusion as to the basic intent of the Congress in the 1974 amendments dealing with the problem. Those of us at the state level who have been concerned with the design of state finance programs which are equitable to all taxpayers believe that the Congress intended to allow impact aid payments to local districts to be recognized in computing state aid in those circumstances where the alternative would be a windfall to the impacted district. The issue has become interwined with the more general question of encouraging states to equalize. In 1974 and since that time, ECS, NCSL and other organizations concerned with school finance reform at the state level have advocated that the federal government remove an impediment to equalization and replace it with an incentive such as Section 842 (Education Amendments of 1974). The Office of Education has, through its interpretation of Section 5(d)(2), tried to compel equalization without regard to major financial issues. The latter course is ineffective because relatively few districts in any given state receive impact aid and secondly, the high costs of undertaking major school aid reform are not commensurate with the "reward" of being able to count impact aid.

Now, let me state explicitly what can be done to eliminate the confusion and uncertainty which continues to mark this issue. In the 1974 amendment of Section 5(d)(2) language was included which was proposed by Congressman Meeds which established a very clear and equitable federal standard. The so-called "Meeds" amendment provided "that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a state equalization program are of local revenues." This language was designed to permit LEA's to tax themselves more heavily than mandated by state law and have some reward therefore reflected in its impact aid receipts. This language, applied on a statewide rather than district by district basis, should be the sole test for determining the maximum amount of impact aid which can be recognized as local resources. This approach would establish a sliding scale reflecting the varying degree of equalization among the states. We submit that use of this as the sole test is completely equitable to impacted districts and taxpayers in other districts as well and should be so recognized by the Office of Education in its regulations. This would provide a clear standard for state legislators to use in fashioning school aid programs and would be adequate to deal with the windfall problem to which the 1974 amendments were addressed.

We do not believe it is necessary to change the statute to achieve this result if the Committee will provide some clear guidance to the Office of Education in report language or by other means. However, if legislation is deemed necessary, the simplest way of dealing with the problem would be to amend subsection 5(d)(2)(B) to delete the authority for the Commissioner of Education to define "equalized expenditures" and let the statute stand on its own.

Mr. Chairman, as I indicated, this issue currently affects only four states though we understand that Florida and Utah may shortly be considering changes in their basic finance program to allow for the deduction of impact aid as a local resource. Other states which have districts receiving significant impact aid funds have not chosen to address it. If, however, the trend toward more equalized aid systems continues -- and it should -- it will come up in other states. We need a clear Congressionally-established policy to guide them.

I hope this testimony is helpful. We will greatly appreciate the Committee's attention to this matter. I would also like to submit for the record a copy of a communication on the pending rulemaking which was submitted on behalf of the Education Commission of the States, the National Governors' Conference, and the National Conference of State Legislatures and the Council of Chief State School Officers, as well as the recent study the National Conference of State Legislatures which details how selected states would fare under the final and proposed impact aid equalization recommendations.

Thank you.

Respectfully submitted,

Harry Wugalter

Harry Wugalter
Secretary for Educational Finance
and Cultural Affairs for the
State of New Mexico

Joseph C. Harder

Joseph C. Harder
Chairman, Kansas Senate
Education Committee and
Member, National Conference
of State Legislatures

Exhibits attached to record copy only.

National
Conference
of State
Legislatures

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President
Martin O. Sabo
Speaker of the House
Minnesota

Executive Director
Earl S. Mackey

May 5, 1977

U.S. Office of Education
Bureau of Elementary and
  Secondary Education
Room 2069
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Attention: Mr. William Stormer

RE: Notice of Proposed Rulemaking,
42 Federal Register 15540.

The following comments on the captioned rulemaking are submitted on behalf of the Education Commission of the States, National Conference of State Legislatures, the National Governors' Conference, and the Council of Chief State School Officers.

These organizations have previously commented on regulations proposed under the authority of Section 5(d)(2) of Public Law 81-874. As a preface to comments on the immediate proposal relative to a "wealth neutrality" test it is appropriate to reiterate our concerns on the general question of the treatment of impact aid in equalized state school finance systems. We believe the fundamental congressional objective in the amendment of Section 5(d) by P.L. 93-380 was to eliminate "windfalls" to local educational agencies receiving federal impact aid payments and also receiving state aid allotted inversely to a LEA's fiscal capacity.

This point is clearly manifested in both Committee Reports on P.L. 93-380. Note the following language on Page 42 of the House Committee Report:

> "The Committee has adopted this amendment because it believes that federal education laws should not serve as an impediment to state actions designed to fulfill the judicial mandates and legislative actions removing the often close relationship between values of property and quality of education in a school district."

Also, in the Senate Committee Report (page 55), the problem is stated as follows:

> "Inability to consider impact aid payments for the purposes of establishing an equalized level of expenditure seriously interfered with state plans for school finance reform."

And on page 56, the effect of the Committee Amendments is described as follows:

> "In other words, in state equalization situations, states may treat impact aid in the same manner as state and local funds in making their determination of financial resources and financial needs of local educational agencies."

There was recognition that without some modification the prohibition in Section 5(d)(2) would result in inequities and overly beneficial treatment for impacted districts. Senator Pell used the term "windfalls" in describing the effect under certain state aid plans (see page S-8502 in the Congressional Record of May 20, 1974).

This objective was further reflected in the language adopted by the Conference Request on P.L. 93-380. The so-called "Needs amendment" established a sliding scale requirement which would eliminate potential windfalls creating any inequitable treatment for impact districts.

In the development of regulations to implement this statute the Office of Education has, we believe, lost sight of this objective and rather has adopted a quite different one. The structure of the regulations including the disparity test and the proposed "wealth neutrality" (Section 115.64) and "exceptional circumstances" (Section 115.65) tests establishes inordinately restructive standards for state programs to qualify as equalizing. These tests are not designed to measure the treatment of impacted districts (the windfall problem) but rather appear designed to reward states which meet the Office of Education standards by allowing them to consider impact aid as local resources. Apparently, this is regarded as an incentive for states to enact school finance reforms geared to the equalizing standards promulgated in these regulations. This assumption ignores the fact that relatively few districts in any given state receive impact aid payments and that the cost of major school finance reforms greatly exceed the amounts received by impacted districts in any given state. Accordingly, the regulations will not in fact act as an incentive for states to equalize. To the extent that they prohibit states from considering impact aid, they protect "windfalls."

Further it should be noted that the penalities in the statute run not to states (which are not recipients of impact aid payments) but rather to recipient school districts. If a state program is determined to be in violation of the referenced regulation the penalty is to withdraw impact aid funds from districts within that state. This is roughly the equivalent of doing away with the potential for bank robbery by eliminating banks.

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Again, we submit that the most equitable and effective policy for eliminating windfalls and ensuring fair treatment of recipient districts as well as state and federal taxpayers, is to use the "Needs" amendment as the sole test for qualification. Any state finance system which provides state aid inversely to local wealth is designed to equalize expenditure. Any state with such a program which reflects impact aid as local resources should be allowed to do so to the extent permitted by the "Needs" amendment. The result is completely equitable and completely consistent with the language and intent of the statute.

With regard to the wealth neutrality and exceptional circumstances test proposed in the captioned rulemaking, we offer the following comments:

WEALTH NEUTRALITY TEST - SECTION 115.14

The proposed regulations on the wealth neutrality test have become unnecessarily cumbersome with the addition of new language dealing with the effect of taxing and spending limitations on wealth neutrality measurements.

The wealth neutrality standard, as originally proposed, recognizes that many new state school aid programs equalize the relationship between school taxes and expenditures rather than mandate equal expenditures among all school districts. The original standard (then referred to as "fiscal neutrality") proposed in the June 25, 1977 Federal Register set forth an understandable standard providing that if a certain proportion of state-local revenues were allocated among school districts on an equalized basis (i.e. without being derived from local wealth), a state could be adjudged as having an equalizing school finance system and thereby qualify for counting impact aid as local resources under the provisions of 5(d)(2).

The new regulations realistically adjust the neutrality standard and new require a state to have 85 percent of all pertinent state-local educational revenues in a wealth-neutral category if it is to count impact aid as funds as a local resource. However, the new regulations now mistakenly compromise this standard by seeking to net out the "disequalizing" effects of state-posed budget and taxing limitations in new finance plans.

These new regulations demonstrate little understanding of the fiscal equity of tax and spending limitations. These limits do not compromise the fiscal equity of a state's school finance law. Most budget limitations either apply to the increase in a LEA's taxing or spending policies without regard for a district's wealth, or if they are based on such characteristics they apply more stringently to higher wealth and higher spending districts.

Fiscal controls are generally designed to moderate spending increases among all districts -- especially important during a period of declining enrollments when fiscal prudence dictates that school districts seek more economy in their budgets. Or these controls seek to provide greater property tax relief to poorer districts. Spending control and tax relief is a legitimate aim of any new equalizing school finance program.

Specific illustrations serve to underscore this general point. In Kansas, for example, budget limitations do prevent lower spending districts from immediately catching up to the spending levels of higher spending units. However, the school tax effort of poorer districts is always less than that of a richer district in similar circumstances. Poor school districts suffer no overall inequity from the operation of that state's finance law. Where two districts have the same spending characteristics, the richer one always receives less aid. Controls in Kansas and other states that use them simply prevent low spending districts from immediately and rashly plowing all increases in state aid into increased expenditures. Such controls are necessary especially where districts are small (i.e. 24 percent of all districts in Kansas enrolled less than 400 pupils in 1974-75) and possibly less well-equipped to implement massive new educational programs. These controls work to provide major property tax relief to the poorer districts that receive new infusions of state aid.

In short, most such fiscal controls apply fairly to rich and poor districts alike. In similar situations, a rich district receives no advantage from tax and budget limitations that occur in state laws similar to that employed in Kansas. Of course when a district does gain an unequalized fiscal advantage from a fiscal control, for example from a voter override of a fiscal limitation wherein the additional funds are raised on an unequalized basis, these funds should be considered non-neutral in character.

Due to the fundamental misunderstandings of the role of state-imposed tax and spending limitations displayed by USOE personnel in drafting these regulations, we would recommend that the original proposed fiscal neutrality standard, as set forth in the June 25, 1976 Register, with the exception that the level of unequalized state-local revenues be set at 15 percent, be substituted for the present proposed wealth neutrality standard.

CONSIDERATION FOR EXCEPTIONAL CIRCUMSTANCES - SECTION 115.65

The Section establishes a third means to allow state qualification. The Section provides for state qualification where the consideration of impact aid payment by a state aid system produces a more equalized expenditure pattern. This is a laudable concept which should be included in the regulations if they are to be maintained in the present form, however, the regulations as proposed do not serve this end.

Subsection (c), Specific Program Requirements, should be deleted. The requirements set forth in this Subsection are completely unrelated to the question of whether a school aid system is more equalized with the inclusion of impact aid. The definition of "more equalized" contained in Subsection (b) is subject to reasonable and precise application. The proposed program requirements in Subsection (c) are all subjective. They use such terms as "predominately" and "substantial" without definition, leaving these terms to ad-hoc application.

In addition, Subsection (c)(3) requires for qualification that a state aid program make provision for identifying pupils with special education needs and other special cost requirements. This creates a positive program requirement to require weightings and the allocation of funds to meet such extraordinary costs.

The statute provides that:

> "definitions of the terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by the Commissioner by regulation, after consultation with state and local educational agencies affected by this subsection, provided that the term "equalize expenditures" shall not be construed in any manner adverse to a program of state aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children."

Thus, the statute recognized that most state finance programs recognize such exceptional costs. The statute does not require a state to take a specific approach for excess cost allowance in its school aid program. However, Subsection (c)(3) makes weighting or other allowances a mandatory requirement for qualification. The disclaimer at the end of this Subsection -- "except that nothing in this clause be construed to regain any particular system of weighting of pupils" -- is indicative of the need to delete this entire Subsection. If the language in (c)(3) is not designed to requrie some system of weighting then it has no purpose, if it is designed to require such weighting than such requirements should be made explicit.

Taken as a whole, Subsection (c) is not only ambiguous but has no connection to the fundational objective of the "exceptional circumstances" test. The proper test and the only one required is set forth in 115.65 (a)(3) and 115.65 (b).

On the best information available it appears that the four states which currently recognizes impact aid payments in calculating state aid meet one or more of the tests which are in effect or are proposed. However, the establishment of a clear regulation which will be effective to permit states to eliminate windfalls while treating impacted districts equitably is most desirable to permit other states to legislate on this issue in a rational manner.

The regulations which have been adopted and are proposed add unnecessary complexity and are unrelated to the problem to which the statutory exception is directed. Again we submit that the use of the "Meeds" language as the sole test will produce the result intended by the Congress.

Sincerely,

Tom C. Massey

Jerry Apodaca
Governor of New Mexico
Chairman,
Education Commission of the States

Lead Governor for Education
National Governors' Conference

Tom C. Massey
State Representative, Texas
Chairman, Education Committee
National Conference of State
Legislatures

Byron W. Hansford

Byron W. Hansford
Executive Secretary
Council of Chief State School
Officers

STATE OF NEW MEXICO
GOVERNOR'S CABINET
SANTA FE
87503

JERRY APODACA
GOVERNOR

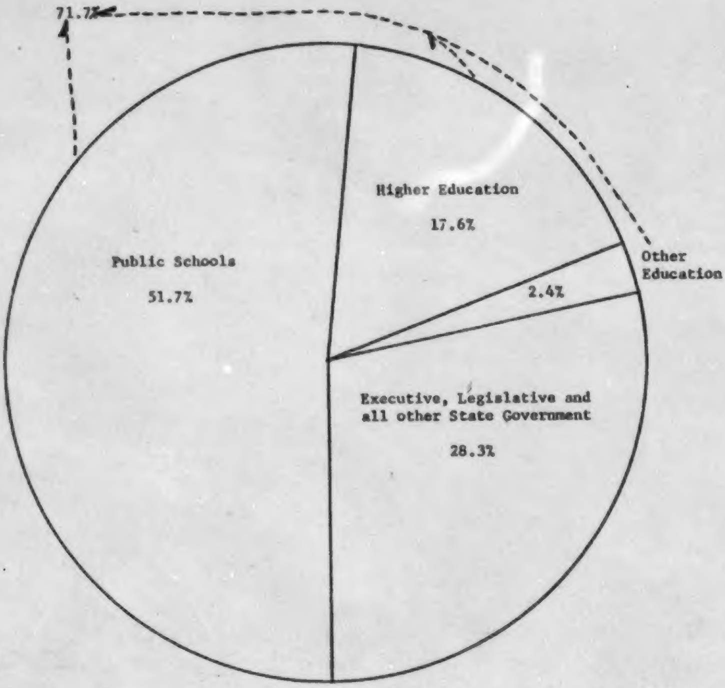
SECRETARY FOR EDUCATION

EQUALIZATION IN NEW MEXICO

In 1976-77 the state guaranteed to each school district $800 per weighted pupil. The local, federal and state partnership provided the following proportions of revenue per weighted pupil.

1. Local revenue ranged from 2% to 99.5% with the average district providing 15.9% of the $800 per weighted pupil.
2. Federal revenue, including P.L. 874, ranged from 0.25% to 52% with the average district's federal revenue providing 6.2% of the $800 per weighted pupil.
3. State revenue ranged from 0% in one district (the next lowest percentage was 17%) to 94.5% with the average district receiving 77.9% of its revenue per weighted pupil from the state.

1977-1978 APPROPRIATIONS



578 Million

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
PUBLIC SCHOOL FINANCE DIVISION
SANTA FE
87503

ROOM 433
CAPITOL BUILDING

AREA CODE 505
TELEPHONE 827-2562

EXHIBIT #1

MEEDS AMENDMENT

The proportion is computed by calculating the amount of local revenue contributed under the equalization program by a school district and dividing that amount by the total amount of revenue applied to education by that district.

Example:

> New Mexico's program guarantees each district $905 per program unit. District A contributes $500 per unit, applies no other revenue and the state provides $405 per unit. New Mexico could take credit for 100% of 874 funds ($500/500).

There is no local leeway available except earnings and miscellaneous revenue in New Mexico. The percentage will always be near a 97% figure in New Mexico since 97% of all state and local revenues are equalized statewide.

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
PUBLIC SCHOOL FINANCE DIVISION
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EXHIBIT #2

NEW MEXICO AND THE WEALTH NEUTRALITY TEST

The test required a state to have 85 percent of all pertinent state-local educational revenues in a wealth-neutral category if it is to count impact aid funds as a local resource.

Pre-Reform	Post-Reform
1973-74 Actual 86.45% Neutral	1975-76 Actual 89.56% Neutral

In nearly all districts, the percent of neutral revenues has increased dramatically from pre-equalization levels.

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
PUBLIC SCHOOL FINANCE DIVISION
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CAPITOL BUILDING

AREA CODE 505
TELEPHONE 827-2562

EXHIBIT #3

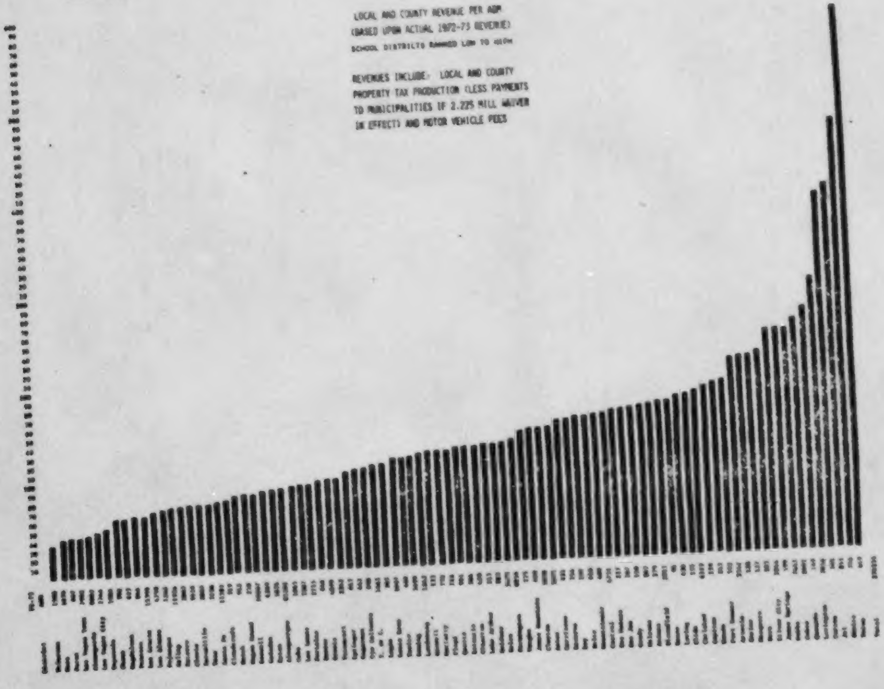
NEW MEXICO AND THE DISPARITY TEST

This test requires that no more than a 25% difference exist between per pupil expenditures or revenues at the 5th and 95th percentiles of districts within the state.

1973-74 Actual revenue per pupil (pre-reform)
111 percent disparity between districts at the 5th and 95th percentile

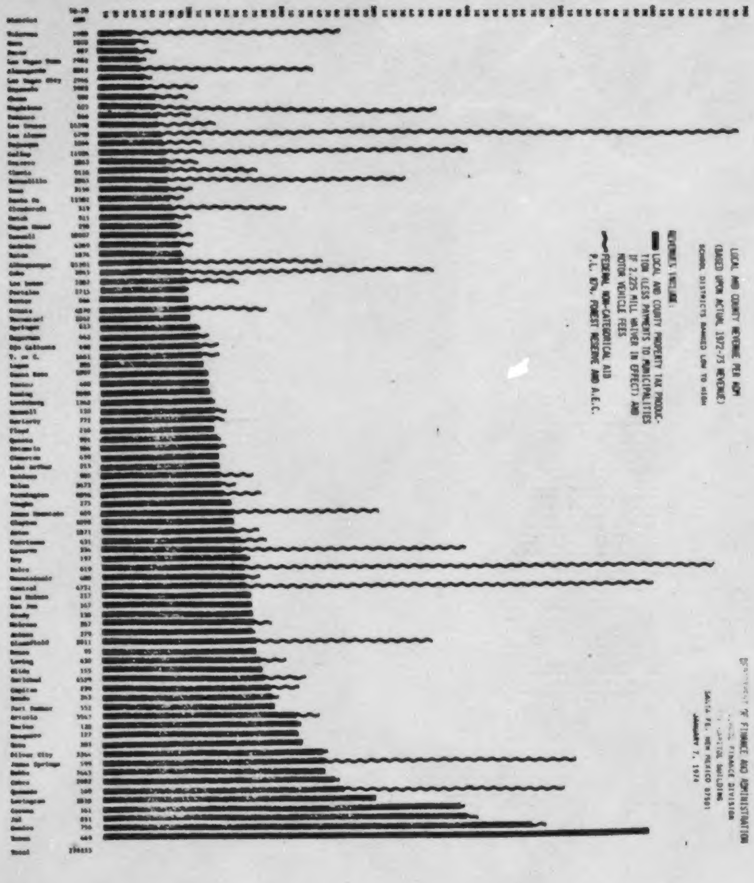
1975-76 Actual revenue per weighted pupil
18.2 percent disparity between districts at the 5th and 9th percentile

DEPARTMENT OF FINANCE AND ADMINISTRATION
PUBLIC SCHOOL FINANCE DIVISION
STATE CAPITOL BUILDING
SANTA FE, NEW MEXICO 87501
JANUARY 7, 1974



LOCAL AND COUNTY REVENUE PER ADM
(BASED UPON ACTUAL 1972-73 REVENUE)
SCHOOL DISTRICTS RANKED LOW TO HIGH

REVENUES INCLUDE: LOCAL AND COUNTY
PROPERTY TAX PRODUCTION (LESS PAYMENTS
TO MUNICIPALITIES IF 2.225 MILL WAIVER
IN EFFECT) AND MOTOR VEHICLE FEES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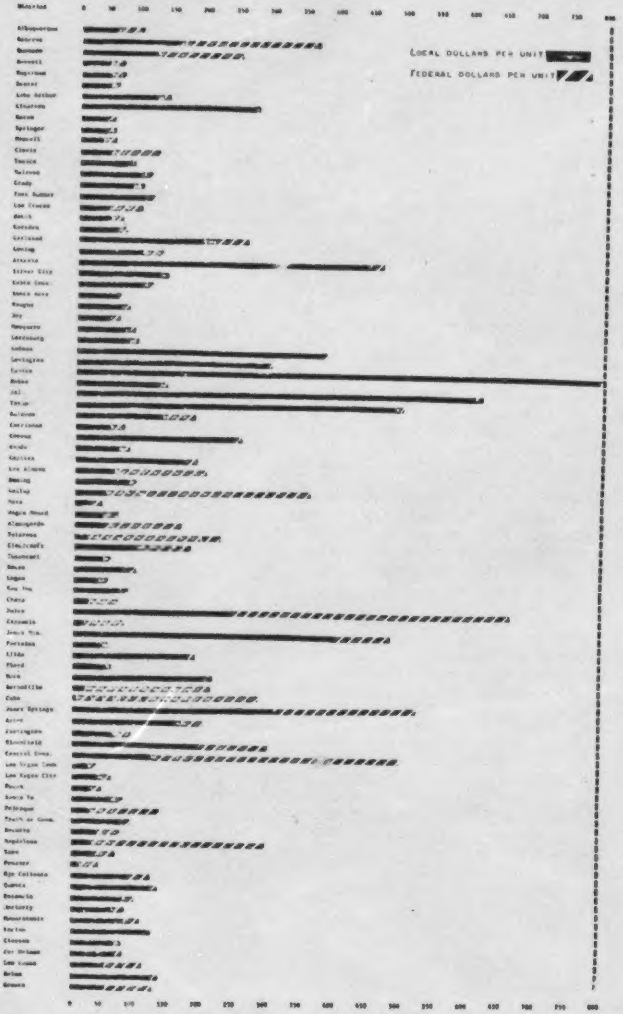
FEDERAL NON-CATEGORICAL AID P.L. 874, FOREST RESERVE AND A.E.C.
DEPARTMENT OF FINANCE AND ADMINISTRATION
PUBLIC SCHOOL FINANCE DIVISION
STATE CAPITOL BUILDING
SANTA FE, NEW MEXICO 87501
JANUARY 7, 1974

EQUALIZATION EFFECT OF NEW SCHOOL FINANCE FORMULA

IN 1976-77 EACH NEW MEXICO SCHOOL DISTRICT WAS GUARANTEED $800 PER WEIGHTED PUPIL UNIT. THE PROPORTIONATE SHARES OF LOCAL AND FEDERAL REVENUE ARE REPRESENTED BY THE TWO DIFFERING BUT CONNECTING BARS. THE AREA REMAINING BETWEEN THE BARS AND THE VERTICAL BROKEN LINE INDICATES STATE REVENUE.



DEPARTMENT OF FINANCE AND ADMINISTRATION
PUBLIC SCHOOL FINANCE DIVISION
JUNE 21, 1977

Revised April 1977

STATE OF NEW MEXICO
GOVERNOR'S CABINET
SANTA FE
87503

JERRY APODACA
GOVERNOR

SECRETARY FOR EDUCATION

THE NEW MEXICO EDUCATIONAL FINANCE PROJECT (NMEXEFP)
THE NEW SCHOOL FUNDING FORMULA

The 1974 New Mexico Legislature enacted a new method of allocating funds to local school districts. This statute, The Public School Finance Act, has been widely acclaimed as one of the most innovative of several equalizing school finance plans currently being utilized across the country.

The Governor, in his address to the opening session of the 1973 Legislature, directed the Chief of the Public School Finance Division and the State Superintendent of Public Instruction to review public school funding in New Mexico and to prepare recommendations for the 1974 Legislative Session. Thus this project was undertaken.

The additional costs of secondary schools were recognized in public school funding in New Mexico in the 1930's. Differential weighting of students by grade level and size of school was an integral part of the Greer formula in the 1960's. The necessity of adequate staffing patterns in the state's public schools was recognized in the last school funding formula. These critical elements are included in the new comprehensive school funding package. New Mexico is, and will continue to be, a national leader in public school finance.

The Supreme Court in March of 1973 in reversing the Rodriguez v. San Antonio case declared that the development of equitable state public school finance plans is the responsibility of the individual states. New Mexico has accepted that responsibility and has taken another step forward in the continuing quest for genuine equality of educational opportunity.

NATIONAL EDUCATIONAL FINANCE PROJECT (NEFP)

The revisions to the New Mexico school funding formula are based largely on research conducted by the NEFP. The National Educational Finance Project was initiated in 1968 by the United States Office of Education. This was the first comprehensive national study of school finance since 1933. The purposes of the National Educational Finance Project were to:

(1) identify the dimensions of educational need in the nation;
(2) identify target populations with special needs;
(3) measure cost differentials among different educational programs;
(4) relate the variations in needs and costs to the ability of school districts, states, and the federal government to support education;
(5) analyze economic factors affecting the financing of education;
(6) evaluate present state and federal school finance programs; and
(7) construct alternative school finance models and analyze the consequences.

One of the projects of the NEFP was the development of a computer model to simulate the fiscal consequences of alternative decisions in regard to the financing of public elementary and secondary education. This model is essentially a school finance management information system model. The decision process primarily involves alternatives related to target populations, educational programs, special services and facilities, distribution methods, and revenue sources. As a tool for better decision-making, the model has almost unlimited potential because of the variety of data which can be accommodated and the ease with which new data may be added and new decision options made available. This model has been adapted for use in New Mexico as an aide in the development of alternative school funding plans for New Mexico.

DEVELOPMENT OF A NEW FUNDING FORMULA

The initial work of the NMEXEFP was the construction of the New Mexico (NMEX) computer model through an adaptation of the NEFP model. With the NMEX model operational the "tools" were available to begin a detailed study of public school finance in New Mexico and subsequently to develop a proposal for a new school finance plan.

At this point in the project Governor King appointed an Advisory Committee on School Finance to gain the input from individuals who have had practical experience in the public schools and others who are vitally interested and concerned with the financing of the public schools in New Mexico. A wide cross-section of educational interests were included in this committee including representatives of teachers' groups, administrators, parents, and legislators. This committee first met in July, 1973 to review the initial work of this project. From that time the committee met monthly to review progress and to give direction for future work in the development of the new school funding formula.

The initial task undertaken by the Advisory Committee was the definition of educational need in a school district. Many elements were discussed; some related to educational programs to meet the individual needs of children, others related to additional cost factors in school districts. This task was accomplished in isolation from revenue factors. The second task of the Advisory Committee was to evaluate the revenue aspects of the proposed formula based on defined need leading to an equitable distribution plan.

These tasks were undertaken with the guiding philosophy of equalizing educational opportunity in New Mexico. The past procedures for school funding in New Mexico led us to a highly disequalized situation. The Serrano and Rodriguez issues were with us in New Mexico. The amount of dollars available for the education of children in different districts in our state was highly dependent upon local wealth. A major objective of the new formula is to take a step in the direction of financial equalization of educational opportunity in New Mexico.

Given the past disequalized state of school funding in New Mexico, the revenue required to reach full equalization at the level of the richest district was staggering. Thus it was unreasonable to strive for full equalization at the highest level in one year. Equalization at any lower level necessarily results in certain districts losing revenue. Therefore, the problem comes clearly into perspective -- equalize financial opportunity at the highest possible revenue level and minimize the revenue loss to the richest districts. This is the goal of the new school funding formula.

Summary of the New Mexico
Public School Finance Act

The State of New Mexico has long been concerned with providing equality of educational opportunity to all of the children in the state. New Mexico has made steady progress throughout the years in moving toward financial equalization for the state's schools. The intent of The Public School Finance Act is to equalize financial opportunity at the highest possible revenue level and to guarantee each New Mexico public school student access to programs and services appropriate to his educational needs regardless of geographic or local economic conditions. This enactment further seeks to encourage local school district initiative in seeking more efficient and effective means of achieving desirable educational goals. Local initiative has been substantially encouraged through de-categorization of fund usage and the absence of any fund "tracking" system. In addition, the New Mexico formula facilitates more thorough analysis of state financial support and provides a more accurate basis for educational management.

The formula utilizes cost differentials to reflect higher costs incurred in providing certain educational programs in order that the individual needs of students are met. Higher costs and the subsequent higher cost differentials are primarily due to smaller pupil-teacher ratios plus the need for specialized equipment and supplies. Individual student needs are the focus of the formula as indicated by the required local district "needs assessment" process. Local district personnel identify the needs of their students and the total state need for each educational program is compiled. Funding for each educational program is determined by calculating program units. Program units are calculated by multiplying the number of students in a particular program (or by multiplying programs as in the case of Special Education for learning disabled children) by the appropriate cost differential. The resultant program units are aggregated by school district and then adjusted by the Educational Training and Experience (T & E) Index of that district. The T & E Index reflects the educational training and teaching experience of the instructional personnel in each individual district. The formula also provides additional program units for each district provided that the district is (a) less than 4,000 in student membership and/or has (b) individual schools (administrative units) the enrollment in which is less than 200 and/or (c) the school district has in excess of 10,000 students in membership with a ratio of membership to senior high schools of less than 4,000 to 1. Each of the additional provisions above, T & E, a, b, c, are designed to offset higher costs incurred for (1) relatively higher training and experience of instructional staff members, (2) relatively higher costs incurred in order to operate relatively smaller school districts and smaller administrative units, and (3) the higher costs incurred in providing multiple high schools without commensurate offsetting enrollments when those high schools exceed the limits provided for school size adjustment calculations.

The formula elements with their respective cost differentials are given below. The New Mexico plan has two major parts, the first of which is the process for the establishment of "educational need" in each district. The second part encompasses the equalization plan for the distribution of funds. Each of these parts will be explained in the following portion of this document:

I. Determination of "educational need".

The establishment of "need" for each district is based upon the following factors:

A. Early Childhood Education (kindergarten programs)
B. Basic Education Programs
C. Special Education Programs
D. Bilingual Education Programs
E. School size (individual administrative units under 200 in membership)
F. School district size (under 4,000 in membership)
G. Rural/isolation element (districts with 10,000 or greater membership and with a ratio of membership to senior high schools of less than 4,000:1)
H. Training and experience of instructional staff

These eight factors are used in determining "program units". The "program unit" is defined as the product of a program factor (A through H above) and that program's cost differential. The total program units for each district are computed according to the following steps:

1. Early Childhood education (kindergarten) program units are equal to the product of the full-time equivalent (FTE) kindergarten students in average daily membership (ADM) times the cost differential 1.3.

2. Basic education program units are the sum of A, B and C below with

   A = the product of the grade 1-3 ADM times 1.1
   B = the product of the grade 4-6 ADM times 1.0
   C = the product of the grade 7-12 ADM times 1.25

3. Special education program units are the sum of A, B and C below with

   A = the product of the number of approved A/B programs (resource rooms) times 20.0

   or

   the product of the grade 1-3 ADM times .12, whichever the school district chooses
   B = the product of C program (mildly handicapped) ADM times 1.9
   C = the product of D program (severely handicapped) ADM times 3.5

4. Bilingual program units are equal to the product of the FTE students in bilingual programs times 0.3.

5. A subtotal of program units is determined by finding the sum of 1-4 above (kindergarten units, basic units, special education units and bilingual units).

6. The Training and Experience Index is computed according to the following table:

	Training				
Experience	BA or Less	BA + 15	MA or BA + 45	MA + 15	Post MA Degree or MA = 45
0-2	.75	.80	.85	.90	1.00
3-5	.90	.95	1.00	1.05	1.15
6-8	1.00	1.00	1.05	1.15	1.30
9-15	1.05	1.10	1.15	1.30	1.40
Over 15	1.05	1.15	1.20	1.35	1.50

7. Adjusted program units are calculated by multiplying subtotal program units (#5 above) times the Training and Experience Index (#6 above).

8. School size adjustment program units are calculated according to one or both of the following equations:

   a. Elementary and junior high schools with fewer than 200 students in ADM

   $$\frac{(200-\text{ADM})}{200} \text{ X } 1.0 \text{ X ADM} = \text{program units}$$

   b. Senior high schools with fewer than 200 students in ADM

   $$\frac{(200-\text{ADM})}{200} \text{ X } 2.0 \text{ X ADM} = \text{program units}$$

9. School district size adjustment program units are calculated according to the following equation provided the school district has fewer than 4,000 students in ADM:

   $$\frac{(4{,}000-\text{ADM})}{4{,}000} \text{ X } 0.15 \text{ X ADM} = \text{program units}$$

10. Rural/Isolation program units are calculated according to the following equation provided the school district has 10,000 or more students in ADM and provided that the senior high schools in the district do not qualify for additional program units as calculated in #8 b above.

    $$\left[\, 4{,}000 - \left(\frac{\text{ADM}}{\text{Number of High Schools}}\right) \right] \text{ X } 0.2 = \text{program units}$$

11. Total program units are calculated by summing A, B, C and D below with

    A = adjusted program units (7 above)
    B = school size adjustment program units (8 above)
    C = school district size adjustment units (9 above)
    D = rural/isolation program units (10 above)

12. Program cost is calculated by multiplying total program units (11 above) times the legislatively determined "dollar per unit" value. For the 1977-78 school year the dollar per unit value is $905.

II. Part two of the New Mexico school finance plan is the method of distribution of funds to local school districts. The equalization plan guarantees that the school district will receive 100% of the calculated program cost as determined in step 12 of Part I above. Program cost is funded by the state on a partnership basis with local and federal governments.

The state allocation to each district is determined by deducting from each district's program cost (A) 95% of designated local revenues, and (B) 95% of designated federal revenues. The remainder is "State Equalization Guarantee" to insure that each district receives 100% of its program cost.

State Equalization Guarantee is equal to each district's program cost less the sum of A, B, C, D and E below with

A = 95% of a uniform tax rate of 8.925 mills levied against the district's assessed value
B = 95% of the district's share of receipts from the sale of motor vehicle licenses
C = 95% of the district's P.L. 874 revenue
D = 95% of the district's Federal Forest Reserve revenue
E = 95% of Federal Regular vocational revenue

In addition to the State Equalization Guarantee distribution, the legislature makes separate appropriations for public school transportation and school textbooks. Transportation is funded at 100% with funds being distributed according to a transportation formula. Textbook funds are distributed at a dollar per student value with virtually 100% of textbook purchases being funded by the state appropriation.

NEW MEXICO PUBLIC SCHOOL FINANCE FORMULA (1976)

Example Calculation of Program Cost

District ADM = 10,000

I. Program Need	Students	Cost Differential	Program Units
Early Childhood FTE	450	1.3	585.0
Basic Program			
Grades 1-3	2,100	1.1	2,310.0
4-6	2,400	1.0	2,400.0
7-12	4,900	1.25	6,125.0
Special Education			
A/B Resource Rm/Resource Tchrs.	6 programs	20 per program or 0.12 x 1-3 ADM	252.0
C Moderate	130	1.9	247.0
D Severe	20	3.5	70.0
Total Students	10,000		
Bilingual FTE	100	0.3	30.0
		Program Units	12,019.0

Training and Experience Index 1.027

Adjusted Program Units = 12,019.0 x 1.027 = 12,343.513

Size Adjustment Units

Elementary-Junior High 168 ADM

$$\frac{200 - 168}{200} \times 1.0 \times 168 = 26.880 \text{ units}$$

Senior High None eligible

$$\frac{200 - 0}{200} \times 2.0 \times 0 = 0 \text{ units}$$

District (Under 4000 only)

$$\frac{4000 - \text{ADM}}{4000} \times 0.15 \times \text{ADM} = \text{units} \quad \text{NA}$$

Size Adjustment Units = 26.880

Rural/Isolation (District ADM over 10,000 only)

Number of senior highs = 2

$$\left[4000 - \left(\frac{\text{ADM}}{\text{No. of senior highs}}\right)\right] \times 0.2 = \text{units}$$

NA

Adjusted Program Units	12,343.513
Size Adjustment Units	26.880
Total Units	12,370.393

Dollar Allocation = 12,370.393 units x dollars per unit
@ $905 per program unit
= 12,370.393 x $905.00
= $11,195,206

100% district need in dollars - $11,195,206

NEW MEXICO PUBLIC SCHOOL FINANCE FORMULA (1976)

EXAMPLE CALCULATION
EDUCATIONAL TRAINING AND EXPERIENCE INDEX

500 Instructional Personnel

Years	BA or Less	BA + 15	MA or BA + 45	MA + 15	Post MA or MA + 45
0-2 (staff)	50	45	5	0	1
3-5	40	20	20	0	[illegible]
6-8	30	35	20	10	0
9-15	15	40	15	20	5
Over 15	20	25	70	10	1

1. Multiply weight by number of personnel in each category:

   50 x .75 = 37.5 (.75 is taken from state matrix)
   40 x .90 = 36
   30 x 1.00 = 30
   15 x 1.05 = 15.75
   etc.

2. Add products from above:

   37.5 + 36 + 30 + 15.75 etc. = 513.45

3. Divide total from above by 500 to give district index: 1.027

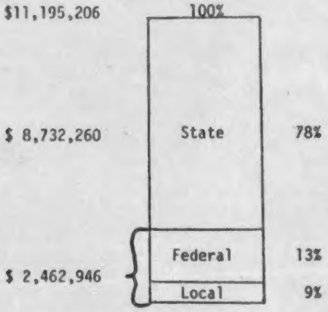
NEW MEXICO PUBLIC SCHOOL FINANCE FORMULA (1976)

EXAMPLE: STATE EQUALIZATION GUARANTEE

II. Distribution of Need

District Revenue:	
Local	
Uniform mill levy (8.925 mills)	$1,010,600
Motor Vehicle License Fees	50,000
Federal (Non-categorical)	
Forest Reserve	10,000
Regular Vocational	-0-
P. L. 874	1,521,975
Total	$2,592,575
95% of total taken as credits	$2,462,946

Program Cost	$11,195,206
Less Credits	-2,462,946
State Equalization Guarantee	$ 8,732,260



Mr. WUGALTER. I have representatives from the National Council of State Legislators, Mr. John Callahan and also a representative from the Education Commission of the States, our attorney, Mrs. Orr.

Thank you, Mr. Chairman.

Mr. BLOUIN. Thank you. Dr. Fish.

STATEMENT OF DR. H. DAVID FISH

[Prepared statement of Dr. Fish follows:]

TESTIMONY ON SECTION 5 (d)(2) OF P. L. 874

H. David Fish

President, Impacted Area Schools

and

Director, Special Projects
San Diego Unified School District
San Diego, California

For the Elementary, Secondary, and Vocational Education Subcommittee

of the Education and Labor Committee

447

IMPACT AID AND EQUALIZATION

Impact Aid was created to partially relieve the burden placed on local property taxpayers when "federally connected" children are educated in local public schools. While federal activities influence local and state economies, it must be remembered that the taxes that are increased are sales and income taxes that are not directed to support education at the local level. Since the Federal Government facilities pay no property tax, the simple justice of providing direct assistance to "impacted" school districts is obvious and is the basis of a program that has lasted twenty-six years.

In 1974, Congress amended the former prohibition in the Impact Aid law to allow states to consider P. L. 874 payments in state equalization programs. The provision for exemption from the strict prohibition was enacted because of testimony that Impact Aid would be disequalizing in states that had achieved Serrano-type equalization. Therefore, legislative history clearly shows that Congress intended that a high standard of equalization and close control be maintained to prevent detrimental loss of funds to those school districts that are providing education for federally connected children without corresponding increases in the local tax base. Unless a high degree of equalization is achieved, then the local property tax base remains a major determinate of the resources available for the individual student's education.

Equalization that meets the requirements of the Serrano opinion is a desirable goal and morally cannot be opposed. Simply stated, the quality of a student's education should not be dependent on the local property wealth of his community. Therefore, equalization means that each student should have equal support for his or her education, any variation should be uniformly applied, and should be based on the student's individual needs (for example, special needs are created by a physical handicap or other identifiable characteristics). Another set of justifiable variations in student support could be based on educational program differences such as vocational, academic, and career programs. The assumption is that any programmatic variation would be uniformly applied and available to any qualified student. In recognition of the desirability of allowing local communities to establish their own priorities, the position can be amended to provide that students should have equal access to resources. The basic principle is that equal effort by the local community should provide equal benefit to the individual student.

Regulations that carry out the intent of Section 5 (d)(2) as amended in P. L. 93-380 should be relatively brief and focused on results. The law assigned the responsibility for defining the terms "equalized expenditures" and "state aid" to the Commissioner through regulation; therefore, the regulation should begin with clear, concise definition of the two terms. Once the terms are defined the regulation-writing process should simply establish a system for overseeing the implementation of the definition and monitoring its operation. The unique problems arising from the interrelationship of three levels of government and the interests of the local taxpayers do require some basic considerations in the regulations.

1. Since the intent of equalization programs is to produce a fair, rationally explainable school support system, the only effective method of judging a program's quality is by examining the results of its application in comparable dollar figures.

2. Since school districts usually lack the resources for the development of statistical data and analyses, results in support per student should be shown on a district-by-district basis in any state plan with any variations explainable by category of student need and program and not by irrelevant factors such as school district size or tax structure.

3. Since Impact Aid is basically a vested property right of the local property taxpayer and its loss would be damaging to him unless there were true equalization, school districts should be entitled to due process prior to any change in their financial condition.

4. Since a state will be utilizing an exception clause, the state should have the burden of proof by applying for approval.

5. Since the state governments have allowed the gross inequities in public school finance for so many years, the assurance of good performance in the future cannot be accepted without yearly monitoring after implementation of qualifying equalization programs.

The Office of Education after three years has reached the final steps of the regulation development on Section 5 (d)(2) as amended in P. L. 93-380. The narrow exception intended for the few states that have achieved a high degree of equalization has been enlarged to an estimated twenty-five percent of the states. The estimate and any knowledge of immediate effect are very tentative as the regulations do not require a prior approval before a state claims coverage under the exemption and takes action.

The failure to follow Congressional intent was evident throughout the regulation-development process by the Office of Education. Specifically the regulations and the development process include the following deficiencies:

1. School districts were not adequately consulted in the process.
2. Arbitrary qualifying percentages were established and then expanded in both tests to qualify more states.
3. Two tests were provided for qualifying state equalization programs and then the Commissioner provided an exception for states that could not meet the liberal test requirements in the first two standards.
4. The Office of Education did not develop or publish any data showing the effect of the proposed regulations. (A contract to provide information was given to an organization that had been and is actively engaged in lobbying on the issue.)
5. No effective system of mandating prior application or monitoring is provided.

The most serious flaw in the regulations as now written is that there is no protection of funds for education. Impact Aid school districts can lose income while other school districts will not necessarily gain. Instead the state can replace state funds with federal funds. There is no assurance that the qualifying equalization programs will meet the high standards of Serrano equalization.

Dr. **Fish**. We are very seriously concerned about the problem of equalization. Our groups, when we meet together, have decided true equalization is a positive good and a necessary justice in our society. The problem is that there is a long process to determine what this is and there are many opportunities for the funds to disappear in the process. Most seriously there is an opportunity here for the states to absorb impact aid funds and the funds to be lost to education. We believe that any change in equalization regulations, or providing the opportunity for equalization is significant not just for impact aid, but for establishing a model, a standard for the Federal cognizance in this area. What is done here is a precedent. Even the process that has been followed here is a precedent, and unfortunately in some espects.

First of all, we don't really consider the problem of writing regulations extremely difficult if you operate on the premise that equal means equal, and it makes it particularly difficult because of a long history of neglect in this area by the states as evidenced by many of the court decisions that have recently occurred. My own state of California is an example.

Equal, under equalization terms means for the student in the regular program, an equal amount of resources. It is very simple. Or even an equal access to resources.

The problem that has happened here is that this has been approached from the position of people writing equalization regulations, equalization plans at the state level. That is the problem of the Office of Education. The Office of Education's problem is very simple, to come up with measuring devices, monitoring systems and a method for appeal in regard to equalization in the regulation.

We believe the standard is not that strict. We believe that the congressional intent of having a high standard with limited exceptions to that general prohibition has been exceeded.

In the words of the regulation, 25 percent of the states are considered now to qualify for equalization.

In the words of most of the people—I believe most of the people have examined the Serrano opinion used as justification for this, very, very few states reached that standard. Therefore, we consider what has happened to be in excess.

Specifically, we can point to a particular aspect of the program. For example, a "disparity" standard. The "disparity" standard would allow 25 percent variation, or disparity in expenditures after you remove the bottom five percent of the school districts. In other words, the Federal government is now saying that five percent of the students in a state would be removed from the protection of the equalization requirement. We can't even consider this.

The 25 percent in school districts now spending around $1300, $1400 as a national average, a 25 percent disparity would allow enough funds going into a single classroom to provide $9,000 or $10,000 in that classroom. That is enough for a teacher's aide, the first thing teachers want when it comes to providing additional resources for their classroom. In each classroom, it would be quite a substantial range of acceptable variation.

We have several elements which concern us about the other programs. Those will come out in the testimony that follows.

I would like to say this about the requirements for the Federal regulations in several points. Since the intent of equalization programs is to produce a fair, rational, explainable school support system, the only method of judging the quality is by qualifying the results of the application in comparable dollar figures and in terms of benefits available to the local school system to spend on education of the students.

You are going to hear a lot about millage figures, required programs at the state level. That is not the Office of Education's problem or business. The results are.

Secondly, since school districts lack the resources of the development of statistical data, analysis should be shown on a district by district basis with explanation of student need and program and not by development factors such as school district size or tax structure.

I would like to indicate this morning in a rumor passed around the group prior to our entry here, we found that South Carolina has enacted a law discounting impact aid payments. I am wondering what monitoring occurred at the Office of Education prior to the passage of that law. What statistical support, what statistical data was made available and looked at on a district by district basis?

Third, this is a very interesting one. Since impact aid is a vested property right of the local property taxpayer and its loss would be damaging to him, unless there were two equalizations school districts, should be entitled to due process prior to any change in their current financial position. As a matter of fact, we interpret the wording of Section 5(d)(2) to mandate that. However, the regulations say—paraphrasing my recollection of the quote—nothing in this section shall preclude a state from considering impact aid prior to requesting a determination.

In other words, the state can take the money first and the school district must fight to get it back. That is an expensive and damaging cost to local school systems when you have to go into narrow resources for the problem of going to court.

Since the state will have the burden of utilizing the exception clause, the states should have to provide the burden of proof before removing the funds.

Since the states have allowed the gross inequities in public school finance for so many years the assurance of good performance in the future cannot be accepted without very careful, close monitoring and implementation when the program is in existence.

I find it difficult to accept the phrase that was used previously that these are recognized good principles because the regulations included two sets of percentages. My recollection is that the disparity standard was at twenty percent initially and was increased to 25 percent. It is interesting. Maybe they consulted with different experts in the field.

It is also my recollection that the original amount of funds that must be included under the fiscal neutrality was 90 percent and then it was increased to 85 percent. Maybe more books were consulted. That disparity standard should have some scientific statistical basis that would show what the effect would be in the classroom of increasing these arbitrary markers.

The final statement regards the process mentioned here. school districts were not adequately consulted in the process. There was one meeting at the Office of Education—I know because I invited myself. The word was passed to the state departments to bring somebody to the meeting. the meeting didn't occur until we brought this to the attention of the Office of Education and only a few people from eight states were invited. There were fewer than 20 districts in the room when this took place.

Another factor we consider important, two tests were developed, equalization being equalization. If those two tests are necessary, and I don't believe they are, that one would work. We don't even see the necessity for the Commissioner's exception unless the desire is to qualify as many states as possible.

Finally, in the process the Office of Education did not develop or publish any data showing the effect of the proposed regulations and in fact a contract was awarded to one of the organizations that have been identified here as an advocate on one side in this issue. This contract allows this organization to develop its own interpretation and results. Somehow I don't consider this a very desirable practice. As a matter of fact, it is highly questionable and I think it is something that should be looked into.

Above all, we are concerned about the future of the program. There is something that seemed a good idea that later on became obsolete in its limitation.

I wish to close with this comment: This is a very serious matter. We think that the regulations have gone too far and are abridging the rights of the school districts. We would like to see the results in dollar terms in the individual school districts programs laid out.

Thank you.

Mr. QUIE. Mr. Odom.

Your statement will be included in the record at this point.
[The prepared statement of Mr. Odom follows:]

TESTIMONY BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

BY

WALLACE S. ODOM
ASSISTANT SUPERINTENDENT FOR FINANCE & BUSINESS AFFAIRS
THE SCHOOL BOARD OF ESCAMBIA COUNTY
215 WEST GARDEN STREET
POST OFFICE BOX 1470
PENSACOLA, FLORIDA 32503

ON

JUNE 29, 1977

AT

WASHINGTON, D. C.

TOPIC: "EQUALIZATION"

TO

THE UNITED STATES HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

Carl D. Perkins (Kentucky) (Chairman)
Ike F. Andrews (North Carolina)
Michael T. Blouin (Iowa)
Paul Simon (Illinois)
Leo C. Zeferetti (New York)
George Miller (California)
Ronald M. Mottl (Ohio)
Austin J. Murphy (Pennsylvania)
Joseph A. LeFante (New Jersey)
Theodore S. Weiss (New York)
Cecil Heftel (Hawaii)
Baltasar Corrada (Puerto Rico)
Dale E. Kildee (Michigan)
Albert H. Quie (Minnesota)
John Buchanan (Alabama)
Larry Pressler (South Dakota)
William F. Goodling (Pennsylvania)
Shirley N. Pettis (California)
Carl D. Pursell (Michigan)

Mr. Chairman, members of the Committee, I am Wallace S. Odom, Assistant Superintendent for Finance and Business Affairs with the School Board of Escambia County, Florida.

I am distinctly honored at the privilege accorded me today to address the Committee on the federal funding of public education--specifically with regard to equalization.

I should like to begin on a positive note by commending you, Mr. Chairman, and the Congress for your demonstrated support for the public schools of this nation through the years. We in Florida are well aware of your constant concern that the education of children be supported fairly and equitably at all levels of government--federal, state and local. I am in complete agreement with the often-stated position that education should be a concern of the federal government, a responsibility of state government, and a function of local government. Mr. Chairman, if we could achieve that distribution of authority it would be the perfect dream come true for public education. The federal concern to which I refer should be not merely a philosophical admonition of a regulatory statute, but a tangible concern expressed in dollars.

The subject at hand today is equalization. We all know what equalization is and by its historical definition I believe we are all in accord that we support it. Not to do so would be unconscionable. But today, through a revision of the federal rules and regulations the term equalization has taken on a new meaning--a meaning only applicable to public education. It is a meaning which should now qualify as an antonym to equalization. Everyone is for equalization.

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The problem is, what is it? Have the dictionaries been wrong all through the years in defining equalization as: to make equal; to make uniform; evenly proportioned; regular; unvarying? Have the dictionaries also been wrong in listing the antonyms as: unequal; different; disproportionate; inadequate?

Let us now focus upon the final federal rules and regulations which go into effect July 1, 1977. These regulations deal with the treatment of payments under state equalization programs. Since the beginning of impact aid, payments by the Federal Government have been made directly to the school districts earning these funds. The new regulations will permit a state having an equalization program, through state legislative action, to require all such payments be made directly to the state for inclusion in its state education finance funding formula.

In Florida there are 67 school districts (each county is one school district) of which 26 earn impact aid funds. Under the new federal regulations these funds would be paid to the state and then be redistributed by the state to all 67 school districts, 41 of which had no part in earning the funds. Obviously, the 26 school districts earning the funds would receive only a watered-down share. For a state to qualify under the new federal regulations, it must meet a certain test called the "disparity standard".

States applying this test would rank all school districts in order of either revenues or expenditures per pupil. Then the school districts that had the top 5% and the bottom 5% of the pupils in terms of this ranking would be disregarded. If the revenue or expenditure figure of the new top district (the 95th percentile cut-off) was no more than 25% higher than the similar figure for the new bottom district (the 5th percentile cut-off), then the state would qualify as an "equalized" state. Under this test, 10% of the state's children are not counted because they are "statistical aberrations". I shall refer now to a publication produced annually by the Commissioner of Education of Florida entitled Profiles of Florida School Districts for the 1975-76 fiscal year. Let us pretend for a moment that the new federal rules and regulations on equalization were in effect during that period. We would find that in Florida for fiscal 1976 there were over 1.6 million full time students in our public schools. In disregarding the bottom 5% this would mean that over 80,000 students in Florida's poorest school districts would not have to be included in any equalization plan. Also, by disregarding the top 5% it would mean that over 80,000 students in the state's wealthiest school districts would literally be "above the law".

I have included Appendix "A" to allow you to follow this analysis. The 25% spread around the average revenue per student in Florida for fiscal 1976 would allow the State Department of Education to say that children of Broward County at $1,551 per student are receiving the same quality education as those in Escambia County at $1,265 per student. This represents a revenue disparity of $286, or 22.6% per student. For a classroom of 25 students this is an actual difference of $7,150--enough in Florida to hire a teacher's aide and carpet and air condition the classroom; or purchase 30 new books for each and every child (750 total books); etc. Please note that this disparity is only 22.6%.

Florida would therefore qualify as an equalized state since the new regulations allow a disparity of up to 25% for qualification of being considered equalized. A 25% revenue disparity would allow a difference in Florida of $316.25 per student (this is still using Escambia County as $1,265 per student as the bottom base), or $7,906.25 allowable difference for a classroom of 25 students. This difference is signficant, Mr. Chairman.

I ask you, is this equalization by any stretch of the imagination? If this is equalization today, what will it become tomorrow? No, Mr. Chairman, this is obviously not equalization--it is instead a deception, a farce, a tragedy to those school districts across our land who are at the lower end of the revenue spectrum, and who more each day realize that they are losing what has become the fight, the battle, the war, for what they know in their minds and hearts is right.

Interestingly enough it can be proven that impact aid funds, as it has existed, does bring about better equalization than the new federal rules and regulations will allow. As documentation of this statement please refer to Appendix "B". It is very similar to Appendix "A" in that all school districts in Florida are ranked in order of revenues per student. The difference is that all impact aid funds have been removed to reflect what the revenue per student would be in all Florida school districts without impact aid as a revenue source. In applying the same disparity test as before, by eliminating the top 5% and bottom 5%, we find that the remaining 90% reflects a range in revenues per student at a high of $1,550 in Broward County to a low of $1,221 in Escambia County. The difference of $329 per student represents a disparity of 26.9%. The State of Florida, without impact aid funds, would therefore not qualify as an "equalized" state. You will recall that by the inclusion of impact aid funds, of payments made directly to the school districts earning the funds, the disparity was 22.6%. There are several implications which may be drawn from this analysis, but the most important is proof-certain that, on balance, those school districts receiving impact aid funds are at the lower end of the revenue spectrum.

Appendix "C" has been included to summarize "A" and "B", plus reflect the degree impact aid funds would have on a per student basis when distributed to all students in the school district. From this one can easily see the intensity of concentration of impact students to the total student population of the school district. School districts showing the higher dollar amounts per student, such as Okaloosa County at $126 and Monroe County at $107, means that they have the highest concentration of students upon which the school district earns impact aid funds. Conversely, school districts showing the lower dollar amounts per student, such as Broward County at $1 and Leon County at $3, means that they have the lowest concentration of students upon which the school district earns impact aid funds. These amounts were derived from a printout from the Department of HEW, Office of Education, School Assistance In Federally Affected Areas, dated December 30, 1976, showing the fiscal 1976 appropriation for each school district in Florida. It was then a simple matter for me to compute the amount of revenue on a per student basis which I then rounded to the nearest dollar.

Approaching equalization from another direction let us examine the property tax structure in Florida. School districts in Florida are currently allowed to levy a maximum of 8 mills. However, to be able to receive state funds under the Florida Education Finance Program a school district must levy 6.3 mills. The 6.3 mills is considered the local required effort. Thus, there is 1 7 mills, called leeway millage, which is disequalized. This disequalization becomes more apparent when one examines each school district and finds that there is a wide range of property taxes raised per mill per student. Please refer to Appendix "D". You will note that the range extends from a high of $127.79 per mill per student in Flagler County to a low of $15.31 in Gadsden County. This is a difference of $112.48 per mill per student. Since Florida is presently unequalized by 1.7 mills, the difference per student between these two counties is $191.22 ($112.48 times 1.7 mills). For a classroom of 25 students the disequalization per classroom is $4,780.50 on the property tax revenue alone.

Thus, until Florida reaches the point of zero leeway millage in its school property tax structure there can be no equalization. The attainment of this goal must, of necessity, be satisfied before impact aid funds are sent directly to the state rather than to the school districts, especially since to do otherwise causes greater disequalization.

As indicated earlier, I am from Escambia County. Escambia County is located in the northwestern part of the state at the very western tip of the Florida panhandle, and is bordered to the north and west by the State of Alabama, and to the south by the Gulf of Mexico. Pensacola is our major city. Our population of some 225,000 persons makes us the 10th largest of the 67 counties in Florida, and is 84% urban and 16% rural. The median age is 24.3 years. Our county school system has over 48,000 full time equivalent students.

I am here today, Mr. Chairman, because there is a problem back home with the problem from Washington. We cannot accept impotent equalization. We deserve something much better and stronger, because by the new federal rules and regulations we are fast becoming the antonym to equalization.

It is hoped the problems have been presented clearly and sufficiently enough here to warrant the support of this Committee. Thank you for your interest, patience and consideration. Again, I appreciate the opportunity and privilege in being able to express these concerns, and in this instance, the sharing concerns of others throughout this great country.

I am ended, Mr. Chairman, and will be glad to answer any questions.

Sheet 1 of 3

APPENDIX "A"
ANALYSIS OF TOTAL REVENUES PER FULL TIME EQUIVALENT STUDENT IN THE STATE OF FLORIDA FOR THE FISCAL YEAR ENDED JUNE 30, 1976

1975-76 APPROPRIATION

81,100 FTE = 5%

SCHOOL DISTRICT	NO. OF FULL TIME EQUIVALENT (FTE) STUDENTS	TOTAL REVENUE PER FTE (INCLUDES IMPACT FUNDS)	RANKING	IMPACT AID APPROPRIATION	IMPACT AID PER STUDENT	TOTAL REVENUE PER FTE WITHOUT IMPACT AID
Washington	3,957	$ 2,246	1	$	$	$ 2,246
Liberty	994	1,855	2			1,855
Collier	13,377	1,726	3			1,726
*Monroe	10,090	1,697	4	1,078,507	107	1,590
Franklin	1,841	1,684	5			1,684
Charlotte	5,854	1,649	6			1,649
Martin	8,361	1,646	7			1,646
Sarasota	25,478	1,645	8			1,645
Hendry	4,205	1,621	9			1,621
Flagler	1,514	1,554	10			1,554
*Glades	1,258	1,553	11	48,819	39	1,514
*Broward	[illegible] } 144,979	1,551	12	124,120	1	1,550
Hernando	6,079	1,509	13			1,509
Jefferson	2,457	1,504	14-15			1,504
Sumter	4,653	1,504	14-15			1,504
*Highlands	7,533	1,492	16	59,733	8	1,484
Pasco	22,492	1,489	17			1,489
Lee	28,090	1,487	18			1,487
Wakulla	2,393	1,479	19			1,479
Palm Beach	73,825	1,478	20			1,478
*Dade	274,319	1,456	21-22	1,727,870	6	1,450
*Holmes	3,483	1,456	21-22	14,220	4	1,452
Gilchrist	1,533	1,441	23			1,441
Indian River	9,178	1,437	24			1,437
Hamilton	2,517	1,427	25			1,427
LaFayette	885	1,423	26			1,423
Okeechobee	4,283	1,422	27			1,422
*Pinellas	96,529	1,419	28	583,357	6	1,413
St. Johns	8,585	1,415	29			1,415
Madison	3,457	1,413	30			1,413

Sheet 2 of 3

APPENDIX "A"
ANALYSIS OF TOTAL REVENUES PER FULL TIME EQUIVALENT STUDENT IN THE STATE OF FLORIDA FOR THE FISCAL YEAR ENDED JUNE 30, 1976

				1975-76 APPROPRIATION		
SCHOOL DISTRICT	NO. OF FULL TIME EQUIVALENT (FTE) STUDENTS	TOTAL REVENUE PER FTE (INCLUDES IMPACT FUNDS)	RANKING	IMPACT AID APPROPRIATION	IMPACT AID PER STUDENT	TOTAL REVENUE PER FTE WITHOUT IMPACT AID
Manatee	20,907	$ 1,411	31	$	$	$ 1,411
*Leon	23,383	1,402	32	60,529	3	1,399
*Alachua	23,091	1,401	33	118,100	5	1,396
Osceola	7,740	1,390	34			1,390
Suwannee	5,138	1,384	35			1,384
Marion	21,726	1,371	36			1,371
Gulf	2,932	1,367	37			1,367
Lake	17,949	1,363	38			1,363
Calhoun	2,258	1,356	39			1,356
*Hillsborough	118,741	1,355	40-41	2,413,641	20	1,335
*Union	1,548	1,355	40-41	6,791	4	1,351
Levy	4,164	1,353	42			1,353
*Volusia	34,782	1,352	43	128,238	4	1,348
DeSoto	3,661	1,348	44			1,348
*Duval	113,188	1,335	45	2,762,903	24	1,311
Taylor	3,893	1,332	46			1,332
*Brevard	55,919	1,330	47	3,032,902	54	1,276
*Nassau	7,308	1,329	48	46,143	6	1,323
*Columbia	7,458	1,327	49	82,925	11	1,316
Jackson	8,284	1,320	50			1,320
Baker	3,438	1,304	51			1,304
*Walton	4,081	1,303	52	92,088	23	1,280
*Orange	88,202	1,299	53	1,377,896	16	1,283
Dixie	1,909	1,296	54			1,296
*Seminole	32,159	1,292	55	138,523	4	1,288
Citrus	7,347	1,290	56-57			1,290
*St. Lucie	12,638	1,290	56-57	97,047	8	1,282

Sheet 3 of 3

APPENDIX "A"
ANALYSIS OF TOTAL REVENUES PER FULL TIME EQUIVALENT STUDENT IN THE STATE OF FLORIDA FOR THE FISCAL YEAR ENDED JUNE 30, 1976

SCHOOL DISTRICT	NO. OF FULL TIME EQUIVALENT (FTE) STUDENTS	TOTAL REVENUE PER FTE (INCLUDES IMPACT FUNDS)	RANKING	1975-76 APPROPRIATION IMPACT AID APPROPRIATION	1975-76 APPROPRIATION IMPACT AID PER STUDENT	TOTAL REVENUE PER FTE WITHOUT IMPACT AID
*Bay	21,395	$ 1,283	58	$ 1,089,682	$ 51	$ 1,232
*Okaloosa	26,853	1,270	59	3,370,348	126	1,144
Polk	63,465	1,268	60-61			1,268
*Santa Rosa	12,330	1,268	60-61	523,245	42	1,226
*Escambia	[illegible] 48,546	1,265	62	2,145,924	44	1,221
Hardee	4,548	1,257	63			1,257
*Bradford	4,431	1,242	64	36,209	8	1,234
Putnam	10,700	1,240	65			1,240
Gadsden	10,167	1,223	66			1,223
*Clay	14,357	1,190	67	831,859	58	1,132
TOTAL	1,624,829			$ 21,991,619		

81,241 FTE = 5%

5% of 1,624,829 = 81,241 FTE

State Average Revenue per FTE = $1,405

*Denotes districts receiving Impact Aid Funds

Sheet 1 of 1

APPENDIX "B"
ANALYSIS OF REVENUES PER FULL TIME EQUIVALENT STUDENT EXCLUDING IMPACT AID IN THE STATE OF FLORIDA FOR THE FISCAL YEAR ENDED JUNE 30, 1976

RANKING WITHOUT IMPACT AID	NAME OF COUNTY SCHOOL DISTRICT	NO. OF FULL-TIME EQUIVALENT (FTE) STUDENTS	REVENUE PER FTE WITHOUT IMPACT AID
1	Washington	3,957	$ 2,246
2	Liberty	994	1,855
3	Collier	13,377	1,726
4	Franklin	1,841	1,684
5	Charlotte	5,854	1,649
6	Martin	8,361	1,646
7	Sarasota	25,478	1,645
8	Hendry	4,205	1,621
*9	Monroe	10,090	1,590
10	Flagler	1,514	1,554
*11	Broward	{5,520 / 139,459} 144,979	1,550
*12	Glades	1,258	1,514
13	Hernando	6,079	1,509
14-15	Jefferson	2,457	1,504
14-15	Sumter	4,653	1,504
16	Pasco	22,492	1,489
17	Lee	28,090	1,487
*18	Highlands	7,533	1,484
19	Wakulla	2,393	1,479
20	Palm Beach	73,825	1,478
*21	Holmes	3,483	1,452
*22	Dade	274,319	1,450
23	Gilchrist	1,533	1,441
24	Indian River	9,178	1,437
25	Hamilton	2,517	1,427
26	LaFayette	885	1,423
27	Okeechobee	4,283	1,422
28	St. Johns	8,585	1,415
*29-30	Pinellas	96,529	1,413
29-30	Madison	3,457	1,413
31	Manatee	20,907	1,411
*32	Leon	23,383	1,399
*33	Alachua	23,091	1,396
34	Osceola	7,740	1,390
35	Suwannee	5,138	1,384
36	Marion	21,726	1,371
37	Gulf	2,932	1,367
38	Lake	17,949	1,363
39	Calhoun	2,258	1,356
40	Levy	4,164	1,353
*41	Union	1,548	1,351
*42-43	Volusia	34,782	1,348
42-43	DeSoto	3,661	1,348
*44	Hillsborough	118,741	1,335
45	Taylor	3,893	1,332
*46	Nassau	7,308	1,323
47	Jackson	8,284	1,320
*48	Columbia	7,458	1,316
*49	Duval	113,188	1,311
50	Baker	3,438	1,304
51	Dixie	1,909	1,296
52	Citrus	7,347	1,290
*53	Seminole	32,159	1,288
*54	Orange	88,202	1,283
*55	St. Lucie	12,638	1,282
*56	Walton	4,081	1,280
*57	Brevard	55,919	1,276
58	Polk	63,465	1,268
59	Hardee	4,542	1,257
60	Putnam	10,700	1,240
*61	Bradford	4,431	1,234
*62	Bay	21,395	1,232
*63	Santa Rosa	12,330	1,226
64	Gadsden	10,167	1,223
*65	Escambia	{-8,515 / 40,031} 48,546	1,221
*66	Okaloosa	26,853	1,144
*67	Clay	14,357	1,132
	Total	1,624,829	

81,241 FTE = 5%

81,241 FTE = 5%

*Denotes Districts receiving Impact Aid Funds

Sheet 1 of 2

APPENDIX "C"
A CONSOLIDATED SUMMARY ANALYSIS
OF APPENDIX "A" AND "B"
STATE OF FLORIDA
FOR THE FISCAL YEAR ENDED JUNE 30, 1976

RANKING WITHOUT IMPACT AID	NAME OF COUNTY SCHOOL DISTRICT	NO. OF FULL-TIME EQUIVALENT (FTE) STUDENTS	REVENUE PER FTE WITHOUT IMPACT AID	IMPACT AID REVENUE PER FTE	TOTAL REVENUE PER FTE	RANKING INCLUDING ALL REVENUES
1	Washington	3,957	$ 2,246	$	$ 2,246	1
2	Liberty	994	1,855		1,855	2
3	Collier	13,377	1,726		1,726	3
4	Franklin	1,841	1,684		1,684	5
5	Charlotte	5,854	1,649		1,649	6
6	Martin	8,361	1,646		1,646	7
7	Sarasota	25,478	1,645		1,645	8
8	Hendry	4,205	1,621		1,621	9
*9	Monroe	10,090	1,590	107	1,697	4
10	Flagler	1,514	1,554		1,554	10
*11	Broward	144,979	1,550	1	1,551	12
*12	Glades	1,258	1,514	39	1,553	11
13	Hernando	6,079	1,509		1,509	13
14-15	Jefferson	2,457	1,504		1,504	14-15
14-15	Sumter	4,653	1,504		1,504	14-15
16	Pasco	22,492	1,489		1,489	17
17	Lee	28,090	1,487		1,487	18
*18	Highlands	7,533	1,484	8	1,492	16
19	Wakulla	2,393	1,479		1,479	19
20	Palm Beach	73,825	1,478		1,478	20
*21	Holmes	3,483	1,452	4	1,456	21-22
*22	Dade	274,319	1,450	6	1,456	21-22
23	Gilchrist	1,533	1,441		1,441	23
24	Indian River	9,178	1,437		1,437	24
25	Hamilton	2,517	1,427		1,427	25
26	LaFayette	885	1,423		1,423	26
27	Okeechobee	4,283	1,422		1,422	27
28	St. Johns	8,585	1,415		1,415	29
*29-30	Pinellas	96,529	1,413	6	1,419	28
29-30	Madison	3,457	1,413		1,413	30
31	Manatee	20,907	1,411		1,411	31
*32	Leon	23,383	1,399	3	1,402	32

APPENDIX "C" - CONT'D.

Sheet 2 of 2

RANKING WITHOUT IMPACT AID	NAME OF COUNTY SCHOOL DISTRICT	NO. OF FULL-TIME EQUIVALENT (FTE) STUDENTS	REVENUE PER FTE WITHOUT IMPACT AID	IMPACT AID REVENUE PER FTE	TOTAL REVENUE PER FTE	RANKING INCLUDING ALL REVENUES
*33	Alachua	23,091	$ 1,396	$ 5	$ 1,401	33
34	Osceola	7,740	1,390		1,390	34
35	Suwannee	5,138	1,384		1,384	35
36	Marion	21,726	1,371		1,371	36
37	Gulf	2,932	1,367		1,367	37
38	Lake	17,949	1,363		1,363	38
39	Calhoun	2,258	1,356		1,356	39
40	Levy	4,164	1,353		1,353	42
*41	Union	1,548	1,351	4	1,355	40-41
*42-43	Volusia	34,782	1,348	4	1,352	43
42-43	DeSoto	3,661	1,348		1,348	44
*44	Hillsborough	118,741	1,335	20	1,355	40-41
45	Taylor	3,893	1,332		1,332	46
*46	Nassau	7,308	1,323	6	1,329	48
47	Jackson	8,284	1,320		1,320	50
*48	Columbia	7,458	1,316	11	1,327	49
*49	Duval	113,188	1,311	24	1,335	45
50	Baker	3,438	1,304		1,304	51
51	Dixie	1,909	1,296		1,296	54
52	Citrus	7,347	1,290		1,290	56-57
*53	Seminole	32,159	1,288	4	1,292	55
*54	Orange	88,202	1,283	16	1,299	53
*55	St. Lucie	12,638	1,282	8	1,290	56-57
*56	Walton	4,081	1,280	23	1,303	52
*57	Brevard	55,919	1,276	54	1,330	47
58	Polk	63,465	1,268		1,268	60-61
59	Hardee	4,542	1,257		1,257	63
60	Putnam	10,700	1,240		1,240	65
*61	Bradford	4,431	1,234	8	1,242	64
*62	Bay	21,395	1,232	51	1,283	58
*63	Santa Rosa	12,330	1,226	42	1,268	60-61
64	Gadsden	10,167	1,223		1,223	66
*65	Escambia	48,546	1,221	44	1,265	62
*66	Okaloosa	26,853	1,144	126	1,270	59
*67	Clay	14,357	1,132	58	1,190	67
	TOTAL	1,624,829				

*Denotes Districts Receiving Impact Aid Funds.

Sheet 1 of 1

APPENDIX "D"
ANALYSIS OF PROPERTY TAX
REVENUE PER MILL PER STUDENT
IN THE STATE OF FLORIDA
FOR THE FISCAL YEAR ENDING JUNE 30, 1977

RANK	SCHOOL DISTRICTS	REVENUE PER MILL PER STUDENT
1	Flagler	$ 127.79
2	Collier	123.52
3	Martin	123.04
4	Charlotte	121.40
5	Sarasota	99.50
*6	Glades	99.28
7	Palm Beach	84.30
8	Indian River	83.81
*9	Broward	80.50
*10	Monroe	75.51
*11	St. Lucie	73.97
*12	Highlands	72.92
13	Osceola	71.91
*14	Dade	69.04
15	Lee	68.67
*16	Volusia	68.33
17	St. Johns	68.09
*18	Pinellas	64.29
19	Manatee	59.51
20	Lake	57.56
*21	Leon	54.73
*22	Orange	53.51
23	Marion	53.26
*24	Walton	52.54
25	Hardee	52.25
26	Pasco	51.06
27	Hernando	50.99
28	Citrus	50.00
*29	Nassau	48.16
30	Hendry	47.58
31	Polk	47.37
*32	Seminole	43.03
*33	Hillsborough	41.85
34	Franklin	41.75
*35	Duval	40.51
36	Okeechobee	39.25
37	Sumter	38.85
38	Hamilton	38.61
39	LaFayette	38.59
*40	Brevard	37.41
41	Gulf	36.18
*42	Alachua	35.77
43	DeSoto	35.52
*44	Clay	35.47
*45	Escambia	34.63
46	Levy	34.35
47	Taylor	32.05
*48	Bay	31.55
49	Putnam	31.13
50	Jefferson	31.02
51	Calhoun	30.76
*52	Santa Rosa	30.54
53	Gilchrist	29.87
54	Liberty	28.30
*55	Bradford	27.91
*56	Columbia	27.33
57	Suwannee	25.49
58	Wakulla	23.91
59	Madison	22.32
*60	Okaloosa	22.11
*61	Holmes	21.88
62	Dixie	20.77
63	Washington	18.71
*64	Union	18.48
65	Jackson	18.38
66	Baker	16.86
67	Gadsden	15.31

*Denotes Districts receiving Impact Aid Funds.

STATEMENT OF WALLACE ODOM

Mr. ODOM. I am Wallace Odom, Superintendent for Finance and Business Affairs for the School Board of Escambia County, Florida. This county is located in the northwestern tip of the Florida panhandle. It is bordered to the west by the state of Alabama, to the south by the Gulf of Mexico. We have 225,000 people in our county; we are the tenth largest county in the state and we have over 48,000 students in our school district.

It is an honor and a privilege for me to address the committee today on the subject of equalization. We all know what equalization is by the historical definition. I believe we are all in accord that we support equalization. Today, through a revision in the Federal rules and regulations, equalization has taken on a new meaning.

Everyone is for equalization. Our problem is, what is it?

We wonder if the dictionaries have been wrong all these years in defining equalization as, "to make equal, make uniform, even the proportion, regular, unvarying." We are wondering whether we have been wrong in calling it indifferent, disproportionate and inadequate.

The new regulations go into effect on July 1, 1977 and allow the states to take the impact aid payments directly from the Federal government and redistribute these funds to all the counties in the state. In Florida we have 67 school districts. 26 of these school districts earn impact funds. Under the new regulations this would allow the distribution to be made to 41 school districts that do not earn the funds, and had no part in earning the funds; they are not entitled to it.

The remaining 26 school districts would receive only a watered-down share of what they were entitled to. We are opposed to the disparity standard as described in the regulation which eliminates the bottom of the top five percent. In Florida we have 1.6 million students. This would mean 160,000 students are either above the law or below the law. We think this is wrong and we also feel the 25 disparity of the 90 percent remainder is also an injustice to the children of our state, to allow a difference, or per-classroom basis.

If you were to figure 25 students per classroom, it allows for a difference in the expenditures of over $7900.

Florida, using the figures from the fiscal year ended June 30, 1976, published in a publication called, "Profiles of Florida School Districts," something showing Florida wouldn't qualify as an equalized state, equalized to where we can allow a difference of $7900 per classroom. If this is equalization today, Mr. Chairman, I wonder what it will become tomorrow. We feel that the new meaning is a deception and a tragedy to public education today.

In my written testimony I have attached several schedules, exhibits. I believe the first one will reflect the equalization under existing impact laws, will bring about better regulation than new regulations will allow.

I referred to the publication produced annually by our commissioner of education entitled, "Profiles of Florida School Districts," and by using the new Federal regulations we have aligned all the school districts in the state, ranked them, counted all the revenues and we find that Florida does qualify under the disparity standards to come in at 22.6 percent. If you were to remove the impact base from all the school districts in the state, with the same ranking, again you would find Florida would not qualify as an equalized state. The allowable difference is 25 percent and we would come in at that point at 26.9.

We believe there is proof certain that the existing impact aid law does bring about better equalization than the new regulations will allow. We also need to examine the property tax structure in our state. There is an 8 mill cap the school districts can levy. Of that 6.3 mills is considered local, required effort, giving the school district a leeway millage of 1.7 mills.

There is another schedule in my written testimony that ranks all the districts top to bottom on the amounts of money raised per mill. I find that one county, the top county, raises $127.79 per mill. The lowest county raises $15.31 per mill.

For a classroom of 25 students, multiplying by the leeway millage, you find there is an unequalized difference on the tax structure alone of over $4700. It is our belief there can be no equalization until there is zero leeway millage.

I am here today, Mr. Chairman, because there is a problem back home and there is a problem in Washington and we cannot accept equalization. Due to the new Federal rules and regulations, we believe we are fast becoming the antonym to equalization. Observing the changes in the law as written initially—I believe there have been 29 amendments to the impact aid law—I am convinced of one thing and that is that people should not see two things being made: laws and sausages.

That concludes my remarks, Mr. Chairman.

STATEMENT OF BERNELL WRIGLEY

Mr. **Wrigley**. Mr. Chairman, may I thank you for the opportunity of submitting a statement in behalf of the Impact Districts of Utah on the issues related to equalization. We believe that we are presently closer to equalization based upon the original purposes of the law than if the state should apply its formula.

We would urge the Commissioner of Education to avoid the strict application of only the state aid formula as the interpretation of whether a state is equalized. This approach actually disregards major factors which create great inequality in a state school finance system. As an indication of these, I submit the following.

1. In the state of Utah the assessment ratio against market value varies throughout the districts of the state from a low of six and thirty-seven hundredths percent to twenty and seventeen hundredths percent. Unfortunately, as soon as counties have been reappraised, the rate has generally declined, and when the first cycle of reappraisal is completed, the range in intercounty assessment rates is as broad as when the reappraisal program began its first cycle in 1970. This difference between school districts indicates more than a 300 percent disparity of effort in their participation in the state aid program.

In a state like Utah, where the participation of the districts is 28 mills, then the state would make up the balance. On this basis, the participation and the application of the assessment ratio has a particular emphasis, particularly when it spreads to a point of about 334 percent.

According to a report to the Capital Outlay Subcommittee of the Education Committee of the Utah Legislature by the Office of Legislative Research, 1976, "to correct this type of inequity some states have an annual adjustment factor which corrects for underevaluation. Utah has such an adjustment in the law for school operation purposes, Section 59-9-2 Utah Code Annotated, 1953, but there has been no compliance since the law was enacted in 1947. Until the assessment rate disparity of taxable property is corrected, the principle of fiscal neutrality, the heart of the school finance equalization can never become a reality in Utah."

2. With the implementation of school budgets in the state of Utah there are major items which can be purchased from either the capital outlay or operation funds. The districts with high assessed evaluations per student, exhibit 2, also have a strong capital outlay potential and are able to relieve the operation budget. If the rules and regulations as issued by the Commissioner of Education do not include a consideration of capital outlay as a factor in equalization, it certainly disregards a major factor which directly affects the operation of school budgets in Utah.

3. The Utah State Legislature has authorized one large school district to transfer up to one million dollars annually from capital outlay to maintenance and operation. This is a district with a high assessed evaluation per student which is permitted by law to use this additional funding beyodn the state aid program. These additional funds are totally disregarded in the state equalization program.

4. For many years several large school districts in Utah have used a voted leeway option to levy up to ten mills for additional funding beyond the state aid program. This was long before the state aid program was identified. The last one, anyway. The last pupil unit.

The revenue from this accrues to districts in varying amounts according to their wealth. Districts may also, without a vote of the people, levy for transportation and further transfer of funding from capital outlay to maintenance and operation. These definitely destroy the intent of any state aid program which has the purpose of equalizing educational opportunity.

5. The Davis District in Utah, which is the largest federally impacted school district in the state, has for many years experienced one of the lowest assessed evaluations per student. Some of this results from the Federal installation at Hill Air Force base. Any additional mill levy beyond the state aid program would only have raised a limited amount of revenue in comparison with other districts. Therefore, the receipt of impact funds has given support to the district to compare more favorably with other large districts.

According to recent estimtes, if P.L. 874 funding were equalized in Utah Davis District would lose $868,974 and the three other large districts of similar size with a much higher wealth per student would receive amounts of $365,65, $553,582 and $930,480 respectively.

I would like to add two of these districts have indicated they would definitely rather leave it like it is.

For Davis District to replace their loss, it would require an additional 3.5 mill levy.

Some of you may not consider a 3.5 mill levy to be excessive, but for a district through the period of years with the tremendous growth taking place at Hill Air Force base and in the area, Davis experienced one of the highest levies, praticularly in the area of capital outlay so as an effort of the people it doesn't make much difference on which side you are making that levy.

The San Juan District, a district in the four corners region of Utah, Arizona, New Mexico and Colorado, serves a large Indian population. Their estimate of loss would be $561,750. In this district it would require an additional seven mill levy to replace these funds. Other impact districts would have similar problems.

We believe that evidence would point to the fact that in Utah the P.L. 874 funds have gone to districts with particular problems created by major Federal impact connections.

I hereby appeal to you in behalf of the Impact Districts in Utah and the Davis County Board of Education, to urge the Commissioner of Education to conclude that Utah has not met the equalization test as Congress has intended.

Thank you.

Mr. **Blouin**. I believe that completes the testimony from the panel. I have one question for Mr. Wugalter.

Yesterday we heard Mr. Swicegood from Gallup say the state took 95 percent of the funds as local revenue, as well as Federal reserve which I assume is forestry monies, as a detriment to the school district with a heavy Indian population. Could you comment on that? Does the state subtract or take credit for those three programs?

Mr. **Wugalter**. The state can take credit for a uniform 8925 statewide tax levy, the P.L. 874 in lieu of taxes; the Federal vocational funds, however, altered during the last legislative session—I will tell you more about that later—the Forest Reserve and the motor vehicle license fees. That is the only items the state takes credit for. In the Gallup area, the 874 would be the largest. It has a low income due to so much Federal land that is not on the tax rolls. I just received this information, incidentally, and I haven't had an oportunity to review the numbers, but I am sure this is accurate information.

As far as the impact is concerned, the Gallup School District is one of the unique ones in the state.

First, it is 5,000 square miles in geographic area. It has five high schools. The total school population is about 12,000, so you can compare that with one city, Santa Fe, where you can have the entire high school in one area, whereas there it is isolated. That has caused us problems. I wouldn't say it is the dollars. The way our formula works, we develop a program first and then we fund it. It is through the development of the program that we had our first problem and the 1976 legislative session and made a specific change in our formula providing additional units for the Gallup School District to try to offset the rural isolation factor. That, in my opinion, has no bearing on 874. It is how you develop the program that is to be funded. Then we find the money to fund the program, as opposed to waiting for money to arrive and then constructing a program.

We are looking very closely at that need. My original recommendation to the legislature was a .5 factor. The legislative approved a .2, so in fact Gallup received more money this year than it would have, had this new mathematical equation been inserted in our formula.

Now, one question is, I am not opposed to the equalization formula in concept. However, the P.L. 874 funds do not meet the original intent.

That is where I am in a quandry. A number of years ago I think I tried to determine the intent of equalization. It never appeared to be of a categorical nature, but always general. We always thought of it as being in lieu of taxes where you had lands that did not provide any income. Back to the Gallup School District, in the supplemental funding we do not take into consideration in all the other programs—they are all separate, I believe. I believe these items provide a staff almost in total the same as the original staff under the original program.

Mr. BLOUIN. In the '75-'76 school year, the federal monies were $4,141,000, which included 874, Forest Reserve and regular vocational.

On the next page, the amount of money New Mexico has taken for credit exceeds that figure by about $360,000.

Mr. WUGALTER. I will have to check those figures.

Mr. BLOUIN. Would you?

Mr. WUGALTER. I certainly will.

I think we are picking an item out of context. I would not know how much came in.

For example, we have one school district in our state that received no state money. Its local tax revenue from oil and gas production exceeds that established in our formula. We have a recapture clause.

One item we do have which I think is very significant. Whatever we take credit for we guarantee. That is very significant. We take credit for 95 percent of the items you called off; in the event they are not forthcoming the district does not have to cut back the expenditure level. I have a reserve of $10 million I believe which I can draw upon to fulfill our obligations. I think that is a vital part of the program. Dealing with the impact aid law, which is the issue here to be used—in the event you appropriated nothing, what would we do? We would have to go into our reserve to fulfill that obligation because we have taken credit for the construction.

Mr. BLOUIN. In other words, if for some reason impact aid was cut off for a given year, your state formula would guarantee the lost revenue.

Mr. WUGALTER. Yes, sir, up to 95 percent. This has already been borne out in the area of potash when the potash price fell. The districts did not have to go back and cut back on expenditures. We made up the difference. That is how we construct our program.

In our state there is about a $280 million state appropriation. You can add to that about $34 million of local effort on millage and about $19 million of 874. Those are the three major items we package together for our program. I will leave some material with you.

Mr. QUIE. On the question of the $4,516,000 that you took credit for on the last page, as against the $4,141,000 that was considered to come from the Federal government via 874, forest reserve and vocational funds, I notice on this last page the disrict tax levy and tax on motor vehicles are also taken for credit by this state. Would the difference by any chance be the district's tax levy and motor vehicle.

Mr. WUGALTER. I would have to break down what was the 874 and what was the 8925, the motor bureau and so forth. I could break that down for you. I don't believe that our state aid is less than the 874.

Mr. BLOUIN. Do you take the local tax levy?

Mr. WUGALTER. Ninety-five percent. Motor vehicle, forest reserve, 874 and the Federal vocational.

Mr. QUIE. Why did the local levy go down from 1974-'75 and in '75-'76 it dropped to $902,000? Do you know why?

Mr. WUGALTER. I have no idea. The rate remains constant from '74 - '75. The rate doesn't change. It is still 8925. I am sure he is not including debt service in here. There could have been a decline in the assessed valuation if you are talking about production.

Mr. QUIE. You have some uranium there.

Mr. WUGALTER. Uranium crosses from one county into another. The development is in Valencia County where you have your major uranium deposits, so you have a shift of where it is. I understand coal will now open up so I think you will see 8925 bringing in more.

Mr. QUIE. I have some question about how the department came to their conclusions on how they would implement 5(d)(2). Isn't the 874 considered local money, even if you disagree it is strictly in lieu of taxes? Isn't it handled as though it were local money?

Dr. FISH. You mean it goes into the general revenue of the school districts, yes. It is for the purposes of the school district, salaries and so forth. That is where I saw an inconsistency here in the New Mexico example. The idea is they pick up the impact aid funds. We treat that as a local resource. However, in the district which levies the standard millage rate, if it goes above their basic parameter they are allowed to keep that. I sort of see that as an inconsistency in the program. That is why I don't like to fool around with these formulas and millage rates and so forth. Really, the only difference should be on educational needs of students.

Mr. QUIE. I notice in your testimony you start with a different assumption. It is the same assumption the State of Minnesota used too, that you have a set mill levy and you do the equalization within that and the only way you can go above that is if you have a referendum in the school districts to agree to go above it.

What it does, I believe in the end it provides mediocrity in education because it doesn't permit anybody to tax themselves more to do better so everybody else starts looking at the system and says, "We would like to get up there too," so we hold everybody to the basic or the average to bring everybody up to. I have a difference of opinion with your assumption that every school district ought to receive the same amount of money. I think you ought to receive the same amount of money up to a level for a basic level of education, but if they want to go beyond that, we ought to permit them to tax themselves beyond that.

Dr. **Fish**. In trying to summarize, I skipped over the point. We would accept the idea of equal access to resources. The idea that every unit of local effort provides a corresponding amount of results for the kids. In other words, one mill provides an additional $50 per student statewide. That is what they call fiscal neutrality, or power equalizing. That can be a definition of equalization and might work. I frankly haven't seen it in any state yet where they have really gone that far. There are a lot of school districts that have enjoyed low tax rates for a long time and it has slowed it down. It is a hard concept to bring on. I am not opposed to it. It is a method of equalization and generally considered an equitable one.

Mr. **Quie**. In mine I think they have put on a limit of 29 mills. Anything below 29 mills you get that equalized. Some are rich enough they don't have to go to the 29 mills. Most of them do. I think they should be able to go above 29 mills if they want to and not have that equalized. Whether they do or not, it seems to me that 874 money must be considered as local money and then if you determine the state equalization, it seems to me they ought to take into consideration the local revenues that they raise themselves and the 874 which really comes because there isn't taxable property around there for them to tax.

Dr. **Fish**. Our point is, if there was really truly equalization, if a child's education was not a function of the property wealth of that district, we frankly have no moral ground. If it really were then it would be a bonanza. Nobody has achieved it yet. These regulations, 25 percent disparity, that is ludicrous, and cutting off the bottom 5 percent, that is weird. I can see the top 5 percent may be that you might have districts with exceptional needs at some place where they are extremely isolated or something like that, but our argument is if it were truly equalized then the local property taxpayer would stand even. Either under a standard strict equalization or under power equalizing.

Mr. **Quie**. I agree with you on that, but you seem to make the assumption that you ought to have true equalization before you get any consideration of 874's local money. My feeling is that you ought to be able to take 874 into consideration as local money to the extent that you actually do equalize. Now, if you don't have 100 percent equalization, only 50 percent equalization, then you only ought to take 50 percent of 874. If you have only 25 percent equalization, only take 25 percent of 874 and consider that as a local revenue.

Dr. **Fish**. There is a basis for that position but my answer to that would be, this is the only Federal general aid program. The Supreme Court decision on Rodriguez did say it was a state responsibility, but I do believe if the federal government doesn't go for a high standard—maybe 874 funds should be out there as a goal to achieve to that point—I know state legislatures do much; they are under too great pressure to absorb funds, I would see those funds lost.

In California we have a compromise that there be no mandates on the school districts that the legislature didn't provide any funds for and there is a standard phrase at the end of that thing. We have looked at this, examined it and we judge it isn't going to cost anything and it really becomes quite a stretching of the point.

I want that high standard there. That is the way the program was sold here. The people from Kansas, I believe, came in and made very strong testimony on the idea that Sonora-type equalization was going to occur and on top of that impact aid was a bonus. So be it. We can't fight that, but that is what we understood was in the legislative history.

Now we go in and say, "They have equalized 10 percent; they get 10 percent" and so forth. That is not holding to the standard.

Mr. QUIE. I think the regulations were written with a lot of politics involved. I wouldn't blame the Office of Education in this regard as much as the Congress. the Congress has differences of opinion and we tend to write the legislation fuzzy so at least a majority think they have a part of the action and they will vote for it and then we give other people a hard time because they don't write the regulations the way we saw it ourselves. We are sort of like the blind man feeling the elephant. I know it makes it more difficult for you, but I would like to see us develop the principles that could be accepted here and then start over again.

Mr. ODOM. In Florida we do not cap the impact money as a local effort and I think there is a good reason why not. If you were to refer to the Appendix A in my written testimony, you would see the ranking of all the school districts of the states and the ones that receive impact aid funds are indicated and on balance you will also be able to tell if the impact aid districts are at the lower end of the revenue spectrum.

I am from Escambia. We are fifth from the bottom. That is counting all our impact aid. We come in at $1265 per student. That is all resources.

Mr. QUIE. The total revenue for full time equivalent in the top one, and the one with the highest is an impact aid, as is the second down through the fourth.

Mr. ODOM. The first three are not impact. The degrees to which they are impacted is shown on the next to the last column where it shows impact aid per student and the density of the concentration is shown. Brevard County, a rather large county, receives $1 of impact aid money to all the students in the district. It shows they have a very low concentration of impact aid students.

Mr. QUIE. Would you think that Florida, even though you don't take impact aid into consideration in the equalization, the impact aid school districts are still less.

Mr. ODOM. That is right. It is cleraly shown here and all of these figures were pulled out of a profile of our school district publication. I have submitted a copy to all the members of the committee.

Mr. QUIE. I will have to take a look at that.

You are using a hypothetical case.

Mr. ODOM. I am using all revenues, regardless of what source to rank them first of all. In Appendix A it shows that display and

Appendix B pulls out the impact funds and shows how it would stand at that point. Under Appendix A, Florida would qualify for equalization. Under Appendix B, without impact funds, it would not.

Mr. QUIE. It seems in a state like yours there would be some school districts that would be so wealthy they [illegible] above everyone else. One school district has high impact aid [illegible] another one none. The amount of local tax levied per student was the same for both of those too for the ones that are not impact, and then you add the impact aid to the one and the other one you don't have to add it because they have no impact aid students, and that should put them on a fairly equitable basis.

I recognize impact aid in some cases doesn't provide as much as what is raised from local sources because they are B students and you may not have the revenue from houses they live in that you would have in the other school districts, but if they were truly the same and you didn't consider impact aid at all, it seems to me you would have to be providing a tremendous amount of aid for the one over and against the other one when they are ending up the same in the amount of money they have available from local sources, considering impact aid as local money.

Mr. ODOM. That is one reason I also included Appendix D showing the millage rate per student in all various school districts which has a high range of over $127 per student per mill to a low of $15 or something like that.

Mr. QUIE. That is a big problem you have in equalization within the whole state of Florida.

Mr. ODOM. I said in my testimony a few minutes ago there can be no equalization until there is zero relay millage and we are disequalized by $11.87 million out of the eight mills we are allowed to levy.

Mr. QUIE. If there is zero leeway in the millage, then I guess we are all agreed.

What if there was 50 percent leeway? We should be able to take 50 percent into consideration.

Mr. ODOM. We are at 80 percent now. We would drop if impact aid were rolled in.

Dr. FISH. One comment on this factor of being able to take credit. You must remember that impact aid is paid on the basis of students being educated. It is sort of a direct service payment in essence. Actually my school system in San Diego, with 15 military installations, if we went the other way, we would be a rich school district. We do have big blocks of territory that don't generate any children. You say how could that be? Well, there is a military cemetery sitting on extremely valuable land. When you start trying to offset in regard to equalization programs, looking at the property tax and so forth, you are not dealing with equals there, you see. As long as that property tax is a major factor in the local school support, there is no equity.

Mr. QUIE. If you totally disregarded impact aid when the state figures its equalization formula it might help.

Dr. FISH. There is a means proviso in there. We don't think it has been enforced the way the author intended. That would have done some of it.

You have to remove local property tax from this. In most states—I think in the national average about 50 percent of the revenues for school districts still come out of local property taxes and in most of these equlization programs you still have a situation where a state is reorganizing and rearranging what happens at the local level. If impact aid were fully funded, we might have less cases, but it isn't. It is far from it, you see.

As I pointed out the other day, the local property taxpayer and the B student has $600. We get 4200 and in California you say 34 percent of the local revenues come from the state, so we will take 34 percent. 34 percent of $200, which is already far less than what he is getting now. It does not quite square.

Mr. QUIE. I thank you.

The hearing is adjourned.

(Whereupon, at 11:05 a.m., the subcommittee was adjourned.)

[Additional material for inclusion in the record follows:]

June 29, 1977

Dr. Thomas L. Johns
Specialist, School Finance
Bureau of Elementary and Secondary Education
U. S. Office of Education
Washington, D. C.

Dear Dr. Johns:

I was sorry that I had to leave the hearing today before the panel of witnesses had completed their statements and before we could get to questioning. I would be most appreciative if you could answer the following questions for me so that we can include these in our printed hearing record.

The questions follow:

(1) Could you describe for us the steps which you will go through in applying the "disparity" test and the "wealth neutrality" test in determining whether a State has an adequately equalized program of State aid to local school districts? Could you also illustrate your application of these tests through several examples of actual State programs or parts of those programs.

(2) Could you also provide us with technical assistance on the best way to refashion the "Meeds" proportionality rule. As you know, that proportionality rule determines how much impact aid a State may discount in distributing its own aid once that State has been determined to have an adequately equalized program.

I would be most appreciative if you could provide us with the responses to these questions by July 8th. If you have any questions, please contact the staff of the Subcommittee on 225-4368.

Sincerely,

Carl D. Perkins
Chairman

CDP/jm

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

JUL - 7

Carl D. Perkins
Chairman
Congress of the United States
House of Representatives
B-346C Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Perkins:

The enclosed papers are in response to your letter of June 29 in which you requested information to supplement my statement concerning the implementation of the equalization provision of P.L. 81-874.

I have included for your use the following materials:

(1) Instructions for determining the disparity and neutrality standards (two papers).

(2) Illustrations of the application of disparity and neutrality standards in Kansas and Florida (three papers).

(3) An alternative to the proportionality provision of Section 5(d)(2) (one paper).

The papers illustrating the application of the disparity and neutrality standards in Kansas and Florida are intended only to demonstrate how the standards might be applied in those States. Additional information which might become available during a formal determination proceeding might result in conclusions different than those set forth in the enclosed papers. If these papers are published as part of the record, they might be misinterpreted as official findings. To avoid this possibility, I respectfully request that the papers concerning Kansas and Florida not be published as part of the record.

Finally, I would like to point out that the paper dealing with the proportionality provision represents my personal ideas on the subject and not necessarily those of the U.S. Office of Education.

Sincerely,

Thomas L. Johns
Specialist, School Finance
Bureau of Elementary and
Secondary Education

Enclosures

INSTRUCTIONS FOR DETERMINING THE PER CENT OF WEALTH NEUTRAL REVENUES IN A STATE SCHOOL FINANCE PROGRAM UNDER § 115.64 OF FEDERAL REGULATIONS

Introduction

The following instructions are designed to assist interested persons to apply the wealth neutrality standard in the regulations noted above to a State school finance program. It is likely that even with these instructions some questions will remain unanswered and unique situations will require further analysis.

The principle on which this wealth neutrality measure is based is that for an equal effort an equal yield should be realized. This equal effort - equal yield principle is its essential feature with equal effort interpreted as an equal portion of comparable wealth bases, and equal yield interpreted as an equal educational opportunity which may or may not mean equal dollars depending on possible differences in student needs or differences in costs of equal opportunitites.

To measure the degree to which this equal effort - equal yield principle is in effect in a program, not only must the yields and efforts of local educational agencies be analyzed but any restraint on effort which makes equal yields impossible must also be considered. Thus, the measure is designed to count as not wealth neutral both revenues which represent unequal yields for equal effort and revenues not obtainable by some local educational agencies but obtained by others because of budget, tax effort, or expenditure restraints imposed by the State.

For purposes of analysis revenues from State, intermediate, and local sources and non-accountable federal resources, (excluding those designated for capital outlay and debt service for capital outlay), are grouped into four categories: (1) local leeway property tax revenues, (2) other local revenues, (3) equalizing shared cost revenues, and (4) other State funds. The first two must be examined on a district by district basis and in almost all cases some of each in each district will be neutral and some not. In most cases the same will be true for the third category, but in some cases all of those revenues will be neutral. In many cases all revenues from the fourth category will be neutral but a close examination of the distribution criteria must be made before that conclusion can be reached.

If there are separate elementary, secondary, and combined districts in a State they will be compared separately for neutrality and then totaled for the State. Differences in yields which are attributable to State adjustments for differences in need are considered neutral.

If revenues are derived from tax bases other than property for which it is impossible to determine a district by district valuation, an equivalent property wealth base may be calculated using the State average adjusted property tax rate. If comparable property valuations are necessary for this test and are not provided the wealth neutrality standard will not be used in that State. Revenues from non-tax bases will be analyzed as per § 115.64 (b)(1)(iii).

The data needed, on a district by district basis, for the determination of wealth neutrality is: (1) the yield from each of the four categories of revenues described above, (2) comparable wealth and tax rate information, and (3) the pupil count.

The steps for calculating the neutral and non-neutral portions for each revenue category are given below.

I Local leeway property tax revenues

Step 1 For each district divide the valuation by the unweighted pupil count and identify the district with the least valuation per pupil.

Step 2 For each district, multiply the least valuation per pupil from step 1 by the tax rate times the unweighted pupil count. If there is no restraint this is the wealth neutral portion of this revenue category in each district.

If districts are unequally restrained as per § 115.64 (b) (1) (ii) proceed to step 3 .

Step 3 Identify the district most restrained under § 115.64 (b)(1)(ii). Calculate the amount of yield per pupil from this revenue category as if it were making its maximum effort allowed under the restraint. Maximum effort includes a vote of the electorate where provided.

Step 4 For each district multipy the amount from step 3 by the pupil count.

Step 5 The lesser of the amounts classified as wealth neutral in Step 2 and Step 4 is the amount of wealth neutral revenues in each district from the leeway property tax.

Step 6 Subtract the adjusted wealth neutral portion obtained in Step 5 from the yield in each district to obtain the non-neutral portion.

Step 7 Sum the wealth neutral amounts for all districts in the State.

II **Other local revenues**

If all districts in a State are authorized to tax other wealth bases such as sales or income, these sources of revenue are analyzed for wealth neutrality in the same manner as the property tax.

If all districts in a State are fiscally independent and some are permitted to tax a wealth base while others are not, all revenues from such taxes are considered non-neutral. If all districts are fiscally dependent and some of the local governmental units of which the districts are a part are permitted to tax a wealth base while others are not, all revenues from such taxes are considered non-neutral. If a State has both independent and dependent districts the tax bases allowed to the local governments containing the dependent districts will be converted, if necessary, to an equivalent property tax base using the adjusted State average property tax rate of the independent districts.

Other revenues such as fees for school purposes, non-accountable Federal funds, and any State payments in lieu of taxes will be considered as additional yields of the permitted local taxable wealth base or bases.

All other revenues not otherwise exempted such as gifts, bequests, and income from capital assets, including interest, will be combined and analyzed as per § 115.64 (b)(1)(iii) of the regulations.

Interdistrict transfers for such purposes as tuition and cooperative services will be considered as revenue to the district in which the State considers the pupil to be located for State aid purposes.

III Equalizing shared-cost revenues

This class of revenues is analyzed on an equal effort - equal yiled basis. If a district is not considered to participate in this part of a program because its required or presumed local effort is greater than the guaranteed yield or foundation level, that guaranteed level is considered wealth neutral and the excess is considered non-neutral. Keep in mind that the State and local shares of a shared cost program are considered as one sum for purposes of this analysis.

If no districts are restrained, the wealth neutral portion in each district is calculated as follows:

Step 1 The yield from this source to each district is adjusted to remove any funds attributable to special cost differentials as per s 115.61 (b) (3) and s 115.63 (c) (2). If all differentials are on a weighted pupil basis, use yield per weighted pupil in the following steps. The amounts adjusted out are neutral.

Step 2 If a uniform local tax effort is required divide the yield as adjusted in Step 1 by the pupil count. If variable tax efforts are permitted calculate the yield per pupil per unit of tax effort

Step 3 Identify the district with the least amount in step 2. If all amounts are equal the entire yield is neutral. If not proceed with Step 4.

Step 4 For each district multiply the amount in step 3 by the tax effort (if variable effort) times the pupil count and add back special cost differentials from step 1. This is the wealth neutral amount. Subtract from total yield to obtain non-neutral amount.

If districts are unequally restrained as per s 115.64 (b) (1) (ii) proceed to Step 5.

Step 5 Identify the district which would realize the least yield per pupil if it were making its maximum effort allowed under the restraint. (If State law provides for a voter over-ride of a restraint the districts are not considered to be resrtained.) Multiply this amount by the pupil count in each district. Add to this amount the special cost differentials adjusted out from Step 1. This is the wealth neutral amount

Step 6 Use the lesser of the amount in Step 4 or Step 5.

IV Other State revenues

The basis of distribution among districts is the primary determination of neutrality. All other State revenues will be considered wealth neutral unless it is determined that the purpose of a subvention is to provide additional funds to districts with relatively high levels of taxable wealth per pupil.

Examples of such subventions are extra-formula minimum payments, replacement of local property tax revenues under "circuit breaker" provisions, and rebates of sales or income taxes to local districts on the basis of incidence of collection.

Step 1 Determine that portion of each subvention whose purpose is to take wealth into account in a positive fashion.

Step 2 Determine the least amount available on a per pupil basis, to any district.

Step 3 Amounts in excess of the amount determined in Step 3 for all other districts is not neutral.

Step 4 Total the neutral amounts for all districts.

Statewide Neutrality

Total the wealth neutral amounts from each of the four revenue categories for all districts. The percent of neutrality of the State financing program is this total divided by the total State, intermediate, and local revenues multiplied by 100.

Calculation and application of Maximum Proportion

§ 115.66 of the regulations describes the procedures for determining the maximum proportion of the impact funds paid to each district that a qualifying State may take into account. Public Law 81-874 funds attributable to low-rent public housing pupils or handicapped pupils must be deleted prior to application of the proportion. The term "covered" is interpreted to include the guaranteed amount in an equalizing shared cost program even where the local effort required or assumed under the program yields in excess of the guarantee.

Glossary of Terms

local leeway property tax - that portion of the tax on local real property that is not considered in the calculation of amounts of State funds for which the district may be eligible. Amounts available only for capital outlay or for debt service for capital outlay are not included for purposes of this determination.

Pupil count - the pupil measure (enrollment, average daily attendance, average daily membership, or similar count) used by the State in its School finance program.

Tax rate or tax effort - the rate of payment on an established valuation. It is usually expressed in mills or dollars per hundred or thousand of valuation. If valuations are not comparable across districts and an adjusted equalized evaluation is made by the State, the term tax rate will mean the adjusted rate necessitated by such adjusted valuation. See valuation. Where indices of ability to support education are used to determine a local contribution to a shared cost program the tax rate or effort is considered to be uniform.

Valuation - the value set on the tax base for taxing purposes. If valuations are not comparable across districts and an adjusted valuation is made for comparative purposes, the term valuation will mean such adjusted valuation.

Restraint - as per § 115.64 (b)(ii) of the regulations

INSTRUCTIONS FOR DETERMINING THE PERCENT OF EXPENDITURE OR REVENUE DISPARITY IN A STATE SCHOOL FINANCE PROGRAM UNDER § 115.63 OF FEDERAL REGULATIONS

I. Introduction

The following instructions are designed to assist interested persons in applying the disparity standard in the regulations noted above to a State school finance program. It is likely that even with these instructions some questions will remain unanswered and unique situations will require further analysis.

A disparity standard has been chosen because it is a method of evaluating school finance programs in terms of equalization that has been used both by the courts and authorities in the field of school finance. The standard was also selected because it is believed that the phrase "equalize expenditure" (which is the basic requirement of § 5(d)(2) of P.L. 81-874) focuses upon the relative availability of funds to local educational agencies for educating the children within their school systems.

Revenue data as an alternative to expenditure data, is permitted because revenues generally reflect the amounts of funds available for expenditure in a school district and because revenue data is more accessible for current fiscal year evaluation. The exclusion of the upper and bottom 5 percentile school districts is based upon the accepted principle of statistical evaluation that such percentiles usually represent unique or noncharacteristic situations.

II. Definitions

State aid. Any contribution, no repayment for which is expected, which is made by a State to or on behalf of local educational agencies within the State for current expenditures in the provision of free public education;

State equalization program. A program which distributes State revenue to a district in an amount inversely related to district wealth;

Equalize expenditures. To meet the standards set forth in § 115.62 of the regulations;

Current expenditures. The total charges incurred for the benefit of the school year in an elementary or secondary school program, exclusive of capital outlay and debt service for capital outlay.

Revenue. An addition to assets which does not increase any liability, does not represent the recovery of an expenditure, does not represent the cancellation of certain liabilities without a corresponding increase in other liabilities or a decrease in assets, and does not represent a contribution of fund capital in food service or pupil activity funds. Furthermore, for the purposes of calculating this standard, the term "revenue" includes only revenue for current expenditures.

Special cost differentials. There are two allowable categories of special cost differentials: (i) Those associated with pupils having special educational needs, such as handicapped children, economically disadvantaged children, non-English speaking children, and gifted and talented children; and (ii) those associated with sparsity or density of population, cost of living, or special socioeconomic characteristics within the area served by an agency.

III. Inclusions and Exclusions

Revenues or current expenditures included in determinations. The following revenues or current expenditures must be included for each local educational agency in the State in determining the percentage of disparity:

(1) All revenues or current expenditures from State sources, except those which are designated for special cost differentials.

(2) All revenues or current expenditures from local or intermediate sources, except those taken into consideration under any equalized part of the State aid program which are designated for special cost differentials.

(3) Pub. L. 81-874 funds received by the agency under sections 2, 3 and 4 of the Act, except to the extent that (i) they are not taken into consideration under the State aid program, and (ii) they exceed the proportion of those funds that the State would be allowed to take into consideration under § 115.66 of the regulations; and

(4) Any other Federal funds received by the agency for which the agency is not accountable to the Federal Government for their use such as Federal Forest Reserve Funds.

IV. Treatment of Non-Uniform District Organizations

If a State requests it, the Commissioner will make separate disparity computations for different groups of local educational agencies in the State which have similar grade levels of instruction.

In those cases, the weighted average disparity, based on the proportionate number of pupils in each group, may not be more than 25 percent for all the groups.

V. Calculation of Disparity

Step 1	Determine total revenues for each district.
Step 2	Subtract all Federal revenues except as noted in Section III (3) and (4) of these instructions.
Step 3	Subtract all revenues for capital outlay and debt service for capital outlay.
Step 4	Subtract all State revenues for special cost differentials.
Step 5	Subtract all local revenues for special cost differentials which are covered under the State Equalization Program.

Step 6 Divide the balance of revenues by the standard pupil count used in the State.

Step 7 (A) If all districts in the State have the same grade organization (e.g., K-12, 1-12) rank all districts by per pupil revenue in decending order.

(B) If there are multiple district organizational arrangements by grade level (e.g., K-6, 7-9, K-12) rank all districts of similiar organizational structure by per pupil revenue in decending order.

Step 8 For each ranking begin at the top of each rank and counting down, sum the pupils until 5 percent of the total number of pupils is aggregated. The district in which the 95th percentile pupil is counted is considered the 95th percentile district. The 5th percentile district is identified by starting at the bottom of each ranking and summing upward.

Step 9 For each ranking subtract the revenue per pupil figure of the 5th percentile district from that of the 95th percentile district and divide the difference by the revenue per pupil figure of the 5th percentile district and multiply by 100.

Step 10 If only one ranking was made, the figure calculated in Step 9 above is the disparity percentage for the State for purposes of Section 115.63 of the regulations. If multiple rankings were made, the following procedure should be followed:

(A) Multiply the disparity percentage for each ranking by the total number of pupils used in calculating the disparity for each ranking.

(B) Sum the figure obtained in Step 10(A) above.

(C) Divide the sum obtained in Step 10(B) above by the total number of pupils for all ranks. The resulting percentage is the disparity percentage for the State.

Alternatives to the
Proportionality Provision of
Section 5(d)(2)(A)(ii) of P.L. 81-874

(Purpose of The Current Provision)

Section 5(d)(2)(A)(ii) of P.L. 81-874 provides:

> "...that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues."

The purpose of this provision is to forbid a State from considering as a local resource for purposes of State aid calculations a larger proportion of P.L. 81-874 payment than the proportion of local school costs that the State equalizes. The rationale underlying this purpose is based on the idea that any burden resulting from a Federal activity within a State can bear in a particular community only to the extent that the community taxes itself. Obviously, as in the case of Hawaii, no Federal burden can fall peculiarly on a particular local school system since there are no local taxes for education in Hawaii. Since the impact of a Federal activity bears equally on the State of Hawaii as a whole, the State appropriately receives the P.L. 81-874 payment.

When a State "equalizes" a local tax by guaranteeing the same return for effort across all school districts, the State is in effect converting the local tax into a State tax to the extent that by equalizing the tax it is spreading the burden of local yields below the guarantee level equally across the State. This is to say that under an equalized local tax, if a community were to suffer a loss in tax base, the additional burden would be borne by the State as a whole. This sharing-of-the-burden effect is recognized by the current proportionality provision. If a Federal activity reduces the ability of a district to support its educational program through either the removal of taxable wealth or through the addition of children, the State as a whole through the equalization program would replace the lost revenues to the extent that local taxes were equalized. If, for instance, 100 percent of an LEA's taxes were equalized by the State, then the State would have the authority (if it qualified to apply the provision) to reduce State equalization payments to that district by 100 percent. This in recognition of the fact that the burden of any Federal activity in that district is borne equally by the State as a whole.

(Weakness of The Current Provision)

The current proportionality provision does work toward equity as far as it goes. It is flawed, however, in that it ignores those funds which are equalized directly through the taxing and spending authority of the State. When a State earns revenues through taxes laid uniformly across the State and distributes these funds to districts on a uniform basis of need, these funds are as precisely equalized as local funds which are equalized through a shared-cost program. While the current provision recognizes that the burden of a Federal activity which impacts on local equalized funds is to that extent shared equally by the State as a whole, it ignores the fact that the burden of a Federal activity also impacts on State revenues received by a district; and to the extent that Federal activity impacts on State funds the burden is also shared by the State as a whole.

Perhaps the following example will be useful in illustrating this point.

School District in State A	School District in State B
receives:	receives:
$300 State aid (equal program)	$400 State aid (categorical program)
300 local aid (equal program)	100 State aid (equal program)
300 local aid (unequalized)	100 local aid (equal program)
100 P.L. 81-874 payment	300 local aid (unequalized)
	100 P.L. 81-874 payment
$1,000	$1,000

State A has an equalization program guaranteed at a $600 level while State B's equalization program is guaranteed at $200. In both districts, however, exactly $600 of the $1,000 each district spends is equalized - that is, for the same effort the same return is guaranteed within the respective states up to this level.

Although precisely the same amount of resources each district spends is equalized, the two are treated in a dramatically different fashion by the application of the current proportionality provision.

The school district in State A could lose up to $50 in State equalization aid per pupil while the school district in State B could lose only one half of that amount. There is no justification for this difference in treatment given the fact that the net burden of a Federal activity would be shared in exactly the same proportions in both districts. For instance if both districts lost one half of their wealth due to a Federal activity both would lose $150 in per pupil revenues.

(Alternative Proportionality Provision)

In order to truely reflect the proportionality of the district versus State share of a Federal impact burden, the proportion should be calculated as follows:

$$\text{proportion} = \frac{\text{equalized State and local revenues*}}{\text{total State and local revenues*}}$$

*for current operation

If the proportion were calculated in this manner states would be allowed to count P.L. 81-874 funds as a local resource in true proportion to the degree that the state as a whole shares the burden of a Federal activity. States which use the device of State flat grants as their major tool for achieving the same degree of equity as those States which combine State and local funds in a shared cost program would be treated equally. This provision would, of course, increase the proportion that most qualifying states could apply in counting P.L. 81-874 payments as a local resource.

(Definition of State Equalizing Aid)

The current regulation would allow a State to count P.L. 81-874 payments as a local resource only for the purpose of calculating State equalization aid entitlements to districts. This works well if all P.L. 81-874 districts in a State choosing to apply this provision are receiving State equalization aid payments. However, it is possible (even likely) that the wealthier P.L. 81-874 receiving districts in a State might receive no (or very little) State resources under such a program. In such a case the Section 5(d)(2) provision would act to reduce State aid to poorer districts while saving harmless richer districts from the loss of State aid outside the equalization program. Since all State aid equalizes if it is distributed on a uniform basis of need, it is difficult to defend the rationale behind taking State equalization resources away from poorer districts while saving harmless the flat grant aid to richer districts.

In this respect consideration should be given to striking the word "relative" as it appears in Section 5(d)(2)(A) of the Act. This would permit a State (if it qualified to apply Section 5(d)(2)) to withhold State aid distributed outside the equalization program from those districts too wealthy to receive State equalization aid.

IMPACT AID AND BASIC STATE SCHOOL FINANCE PROGRAMS: CAN THEY BE MADE MORE COMPATIBLE?

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UNDER CONTRACT FOR

OFFICE OF THE ASSISTANCE SECRETARY FOR PLANNING AND EVALUATION
U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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Introduction: Background to the Study

The Education Amendments of 1974, P.L. 93-380, authorize a State to count impact aid as part of its own basic aid allotment to local school districts if it has a school finance program which is designed to ".... equalize expenditures for free public education among the local educational agencies of that State ...."[1/] The Commissioner of the U.S. Office of Education has been directed to promulgate regulations which define the conditions under which a State would be eligible to count impact aid under this law. Proposed regulations implementing Section 5(d)(3) of the impact aid law were first issued on May 1, 1975. These regulations were finalized, in part, on June 25, 1976.*

Throughout the legislative debate surrounding this provision, State and Federal officials have been concerned with the fact that impact aid can impede the equalization of State school finance programs. It can do so in two ways. First, impact aid is often received by very wealthy jurisdictions, those in the surburban Washington, D.C. metropolitan area being the most cited example. Impact aid in these districts often contributes to the extremely high expenditure levels in these jurisdictions. These high spending levels in turn, produce pressure on State governments to "level up" the spending of other less wealthy districts through infusion of additional State aid.

1/ P.L. 93-380 added section 5(d)(3) to P.L. 81-874.

*/ See Appendix A for a copy of final and proposed impact aid equalization regulations.

Another more basic way in which impact aid can alter the equalization of a State's aid system concerns the flow of such aid to poorer districts. Where a State has revised its aid system so that it distributes more aid to property poor than property rich districts, a district can receive double aid payments as a result of its lack of wealth.[2] That is, it will receive equalizing aid from the State and it also will receive federal impact aid from the Federal government. Since impact aid is not earmarked for any specific purpose the affected district will receive two lump-sum, unconditional aid payments for its lack of wealth. In this sense, it enjoys a "windfall" from the Federal impact aid program.

In recognition of this fact, several States deducted impact aid payments from their own basic allotments until 1966.[3] At that time, Congress passed a blanket prohibition of this practice in the Education Amendments of 1966. Several States, Kansas and North Dakota in particular, however, continued to feel that this practice was essential to the overall equity of their school finance systems and they received authorization to continue impact aid deduction under the National School Lunch and Child Nuturition Act of 1973. In recognition of the mounting State demand for the option of counting impact aid as part of basic

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[2] See Congressional Record, September 24, 1973, pp. S17433-S17437 for an illustration of this problem as it affects Kansas.

[3] See House of Representatives Committee on Education and Labor, Public Law 874 and State Equalization Plans: The Problems of the Legislative Prohibition of Section 5(d)(2). (Washington, D.C.: U.S. G.P.O., 1974). It should be noted that States which once practiced this deduction have since made major studies in equalizing their own State finance programs.

State allotments, Congress in 1974 passed the aforementioned amendments to P.L. 81-874, which permitted States to deduct impact aid when they were adjudged to have an equalizing aid system.

The task now fell to the U.S. Office of Education to develop regulations to determine how many States would be eligible to qualify under these amendments.

Nature of the Study

Under contract with the Office of the Assistant Secretary of Planning and Evaluation (ASPE) of the U.S. Department of Health, Education and Welfare, the National Conference of State Legislatures undertook this study to determine whether a select number of States would qualify under proposed impact aid regulations. The Legislators' Education Action Project (LEAP) of the National Conference of State Legislatures was asked to do this study in light of its extensive research into the fiscal equity of State school finance system.* The LEAP project also was in an excellent position to do this study since it maintained a wide variety of contacts in State legislatures and State Education Departments throughout the country and could undertake this research task with comparative ease.

Fifteen States were initially proposed for analysis, these States accounting for 37 percent of the $628 million in impact aid entitlements in 1974-75. Data were ultimately compiled for eleven of these States, since data were not readily available for analysis in the other four. In light of the lack of data from these other four States, NCSL agreed to provide an evaluation of the proposed impact aid standards.

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*/ See, for example, NCSL, School Finance Reform: A Legislators' Handbook (Washington, NCSL, 1976).

The task involved in this study is two-fold. One part involves the analysis of school finance data from the affected States to determine: (1) the extent of expenditure and revenue disparities among school districts within a State and the relationship of such disparities to the expenditure equalization standard proposed in USOE regulations,[4] (2) the percent of total State and local educational revenue that can be classified as "fiscally neutral" and the relationship of this funding to the proposed USOE regulations on the subject,[5] and (3) whether inclusion of federal impact aid in a State's school aid system makes overall expenditure patterns within a State more or less equalized.[6] These three data analyses are intended to determine whether a State would be judged eligible under proposed USOE impact aid regulations which will implement Section 4(d)(3) of P.L. 81-874.

Another task involved an interpretation of the findings of our data analyses together with an evaluation of proposed equalization standards and the procedures that the U.S. Office of Education should follow in future years in determining whether States qualify under such impact aid regulations.

The Stucture of the Report

This report is divided into two major parts. The first indicates how many States would qualify under these proposed impact aid standards, evaluates the comparative standards, describes the policy issues that are raised by each of the standards, and discusses the data collection procedures that should be used in the future in determining State eligibility under Section 5(d)(3).

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[4] The disparity standard requires that expenditure differences between the 5th and 95th percentile district, ranked on the basis of per pupil expenditures, not exceed 25 percent.

[5] The neutrality standard requires that not less than 90 percent of all State-revenues for education be of a "fiscally neutral" or equalized character.

[6] The exception standard requires that a State could qualify for counting impact aid if expenditures and revenues will be more

The second part of the report provides detailed fiscal analysis of school finances and impact aid disbursements in eleven States. Each State analysis has an identical structure. The basic State school aid program is described. The sources of equalization and disequalization in a State's school aid program are described and a determination is made as to whether a State would qualify under proposed regulations based on the quantative data which is appended to each State analysis.

Verification has been sought for each of the State analyses included in Part II of this report. In all cases, such verification has been received in writing or by phone. The list of prime State contacts is attached in Appendix B. Where revisions were suggested in our initial analysis, they were made. The basic results of our original analysis, however, did not change as a result of these revisions.

PART I

Report Findings

State Eligibility Under Proposed Equalization Standards. Of the eleven States analyzed, only two -- Florida and New Mexico -- would qualify under both equalization standards. Four other States -- Colorado, Maine, Minnesota and Rhode Island -- would qualify under the proposed neutrality standard since they all have over 90 percent of their State-local revenues for schools in an equalizing character. Two other States -- Kansas and North Dakota -- would qualify under the proposed neutrality standard if it were revised to an 85 percent level while three States studied -- Maryland, Virginia, and Washington -- would not qualify for counting impact aid under either proposed equalization standard. (See tables 1 and 2.)

The data analyzed also indicated that in general when impact aid was included in a State's school aid system, expenditures would be more equalized among school districts. The greatest amount of expenditure equalization would occur in the State of New Mexico where substantial impact aid funds now flow to high spending districts. Expenditures would also be more equalized in States such as Maryland and Virginia where impact aid also flows to higher spending districts. In most other States, expenditures would be somewhat more equalized though expenditure distributions -- among all districts and not just among districts at the extreme ends of the expenditure spectrum -- would not be radically changed.

Table 1
Impact Aid Equalization Statistics
Selected States
1974-75

State	Percent Difference In Expenditures Between 5th & 95th Percentile District a/	Percent of State-Local Revenues in Equalized Character b/	Mean Dollar Revenue Devia When Impact Aid Is: c/ Equalized	Not Equali
COLORADO	82.4%	91.9%	$358.77	$356.72
FLORIDA	19.7	94.1	N.C.	N.C.
KANSAS	65.8 d/	85-92	266.16	263.78
MAINE	63.5	98.1	137.06	143.23
MARYLAND	66.5	67.3	108.86	123.74
MINNESOTA	73.3	94.2	N.C.	N.C.
NEW MEXICO	13.7 e/	97.6	69.48	101.45
NORTH DAKOTA	55.0 d/	87.6	173.97	185.12
RHODE ISLAND	58.8	97.8	131.27	131.85
VIRGINIA	74.4	69.1	108.66	117.93
WASHINGTON	81.2	71.2	N.C.	N.C.

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a/ This is the fiscal disparity test
b/ This is the fiscal neutrality test
c/ This is the impact aid exception test. The average deviation from the mean (in percent terms) the statistic used for this test.
d/ See State write-up for more detail; this refers to all districts
e/ Refers to 1975-7 data; all other analyses are in 1974-75 data.

Table 2
Selected States and Eligibility for Inclusion of Impact Aid in Basic State Aid Programs

State	Disparity Test	Fiscal Neutrality Test	Exception Test
COLORADO	NO	YES	NO
FLORIDA	YES	YES	NOT COMPUTED
KANSAS	NO	YES/NO[a]	NO
MAINE	NO	YES	YES
MARYLAND	NO	NO	YES
MINNESOTA	NO	YES	NOT COMPUTED
NEW MEXICO	YES	YES	YES
NORTH DAKOTA	NO	NO	YES
RHODE ISLAND	NO	YES	YES
VIRGINIA	NO	NO	YES
WASHINGTON	NO	NO	NOT COMPUTED

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a/ Depends on classification of income tax rebates to local school districts.

Comparative Equalization Standards. The expenditure disparity standard still proves exceedingly difficult for most States to qualify. Only Florida and New Mexico of the eleven States studied qualify under this standard.

The main problem with the disparity standard is that it still does not completely mitigate the impact of counting the exceedingly high expenditures of sparse small districts in some States. When expenditure disparities are analyzed by class of districts, the highest levels of disparities among districts occur with the smaller units. Thus, in the very largest districts in Kansas, those with enrollments of more than 1100, general fund expenditure disparities are within the proposed fiscal disparity standard. In sharp contrast, expenditure disparities are greatest among small districts in both Kansas and North Dekota, two States which give greater amounts of State subsidy to smaller units.

The overall disparity test is further complicated by the fact that many of the larger school districts in these States spend at relatively low levels when compared to Statewide averages. The lack of expenditure variation among these districts, however, indicates that these units may not be affected by major educational fiscal disparities. Yet, when expenditure comparisons among these large and small districts are made, a State may appear to have an artificially high level of expenditure disparity.

The proposed fiscal neutrality standard is a considerably more workable and understandable test than the disparity test. It is fairly simple to understand. It avoids the problem of comparing expenditure levels between very small and very large school districts, and it is administratively easier to manage than the disparity test.

The standard, however, is not without its own problems. Classification of revenue items is sometimes difficult when there are not enough pertinent subaccounts for a particular revenue. This is primarily the case when one has to determine how much basic State aid goes for "save-harmless" purposes. Similar problems can occur also in determining how much local school revenues are used to match basic aid programs and how much local revenue is raised for expenditures above the basic State program. The level of detail on miscellaneous revenues at all levels -- local, intermediate, and State -- can also prove troublesome. Finally, some care must be taken in categorizing certain revenues that appear disequalizing but which in fact have some equalizing characteristics. This occurs, in Kansas, for example, where State income tax proceeds are shared on a point of origin basis with local school districts. Initially, one might conclude that all such revenues are disequalizing; this ignores the fact that if the revenues were distributed on a per pupil basis, for example, the distribution of such aids would not be completely different than on a point of origin basis. This also ignores the fact that most such revenues are used for local tax relief and not for the creation of new expenditure disparities.

In short, the main problems with the fiscal neutrality test will be in gathering sufficient narrative detail about the State and local revenues that are classified as equalizing or disequalizing under this test.

The exception standard as contained in the final regulations also could stand some reworking. In present regulations, States can initially qualify for counting impact aid if expenditure distributions around the mean are more qualized when counting impact aid as part of State funds than when they are not. This ignores the fact that the other pertinent expenditure test is referent to the extreme cases in a distribution of school districts -- the 5th and 95th percentile districts. Consequently, the exception test might be reworked to reference the test to this former disparity standard. One final caution about this test is in order. The differences in overall expenditure disparities in some States when counting or not counting impact aid are not substantial. This reflects the simple fact that in most States impact aid does not have a major impact on the expenditure differences of a large number of districts -- only a selected few.

Policy Issues Raised by the Impact Aid Standards. The impact aid analysis of the eleven selected States that follow raises several important policy issues for Federal and State decision-makers who are trying to implement these proposed regulations.

First, it is clear that an alternative to the fiscal disparity standard is essential if States with equalized aid systems are to take advantage of the impact aid deduction option noted in Section

5(d)(3). The disparity standard, as presnetly constituted, has several basic conceptual and empirical flaws which require that an alternative equalization standard be retained in ultimate regulations. First, the standard presumes that all equalizing State school finance systems have as their central goal the equalization of basic school expenditures. This fails to recognize that many States, in restructuring their aid systems, have adopted a different standard of fiscal equalization -- namely that of district power equalization. In simple terms, those States with such finance systems simply guarantee that if two local districts choose to make the same fiscal effort for schools they will be guaranteed an equal level of expenditure for that effort. If they do not, they will not have equal school expenditures as a result. This tax/expenditure equalization simply is not reflected in current fiscal disparity standards.

In other cases, Maine and Minnesota being prime examples, State policy has been for low expenditure districts to catch up with the rest of the State on a gradual rather than one-shot basis. This is also not reflected in present expenditure disparity standards. Finally, as noted earlier, the disparity standard fails to account for the expenditure disequalization caused by small districts in many States. Some consideration might then be given to have the disparity standard only apply to districts that are over a certain minimum size, something which is not now provided for in current regulations.

Secondly, equalization rules and measurements for both standards need to be spelled out more clearly. Several States such as Minnesota provide a large measure of school property tax relief through agricultural and homestead tax reductions and through tax relief payments made to low income families and individuals under their circuit-breaker programs. Such relief is fiscally equalizing and as such might be included in the computations affecting the fiscal neutrality standard. A similar case occurs in Kansas where State income tax proceeds are distributed on a partially disequalizing basis, yet their main effect is to provide school tax relief and not add to expenditure disparities in that State. Rules for determining the equalization of this fsical flow are not settled on in the proposed standards.

Similarly, most State categorical aid programs typically pay for all or a very high share of approved or excess costs in such areas as special, vocational, and bilingual education. Yet, it is unclear whether State funds that pay 90 percent of "excess" costs in special education are any less or more equalizing than State categorical aids that pay for 100 percent or 75 percent of such excess costs. Moreover, in the expenditure equalization test, it is not uncommon to find that in some States, Rhode Island for example, higher expenditures are found in poorer districts. However, the expenditure disparities in that State would disqualify it from counting impact aid. Thus, expenditures would have to be more uniform in that State, causing fiscal problems for poorer districts, before that State could qualify as having an "equalizing aid" system. All these examples point forth the need to more clearly understand the fiscal and educational ramifications of the equalization rules and measurements inherent in the present regulations.

Finally, the whole question of how impact aid funds should be equalized needs reconsideration. Our analysis indicates that most States will have more equalized funding if impact aid were fully deducted in their aid programs. However, the present provisions of P.L. 93-380 provide that impact aid payments to a district can only be deducted in proportion to the percent of total funds in a district that are equalized. The consequence of this proportionality rule is that rich districts receive less impact aid deductions than poorer districts. This rule may prevent some States from taking the option to include impact aid in their basic aid systems. On the other hand, a full 100 percent deduction would allow States to channel impact aid back into their more equalizing aid system, since it would take impact aid from rich districts and redistribute those funds to poorer districts.

It should be borne in mind that the problem which prompted amendment of section 5(d)(3) of P.L. 81-874 was the double compensation of impacted districts in States with equalizing school aid systems -- the "windfall" problem as Senator Pell described it during the Senate debate on the Education Amendments of 1974. In attempting to prevent "windfalls," present regulations establish tests for finance equalization which go well beyond the treatment of districts receiving P.L. 874 payments. Thus, a revised law and set of regulations that would permit 100 percent State deduction of impact aid if the district was guaranteed the level of expenditure for impact aid students in the "A" category might be a simpler way of dealing with the impact aid issue. Alternatively, the federal government might simply permit a State to deduct a standard statewide share of impact aid for all districts that would relate to the amount of State and local revenues that are covered under an equalization program. Thus, as in New Mexico's case, if 95 percent of all basic educational revenues are equalized, 95 percent of all impact aid could be included as a deduction in basic aid.

In short, a more equalizing deduction rule should be applied to impact aid. The deduction rule should reflect the degree of equalization in a State's school finance program. However, a more equalized deduction procedure will require legislative amendment of present provisions of Section 5(d)(3).

Data Collection. Data collection for determining equalization standards should be State-based with adequate documentation provided to DHEW for determination of whether States can qualify under proposed standards.

First, USOE should determine how many States wish to take advantage of the impact aid deduction option provided for in P.L. 93-380. Then, it should ask for pertinent current revenue per pupil information for use in determining how the State fares under the three main proposed tests. Simple worksheets could be easily designed for this purpose. Each State would have to give a full narrative accounting of the revenue or expenditure items that were included in the test as well as a listing of those items not included in the test. This would give USOE personnel an adequate information base, not centrally designed, form which to make elligability determinations under the finalized impact aid regulations.

PART II

SELECTED STATE ANALYSES OF PROPOSED IMPACT AID DEDUCTION STANDARDS

Colorado

Basic Funding Program

Colorado has a district power equalization school finance program which guarantees that all districts in the state will receive $27 per pupil for each mill of tax levy that they raise for general school support. The only constraint to this aid guarantee is that districts face fiscal limits which determine the revenue base to which state aid applied. Thus, these limits prevent a situation where a district can drastically increase its spending level in order to gain additional state aid. The state also provides minimum aid for districts that can raise more than $18 per pupil per mill of local revenue effort. Bonus State aid is also offered to districts that have small attendance centers -- a sparsity factor.

The state provides a variety of categorical aid programs, paying for 100 percent of approved bilingual costs and 50-80 percent of local costs for approved vocational and special education programs. There is also full state funding of increased school costs that are due to selected types of emergencies which amounted to $300,000 in 1974. Moreover, the state reimburses, on a pro rata basis, the local districts for impact aid that appears in local budgets but that is not received in the year for which it is budgeted.

Sources of Equalization

The basic funding equalization in Colorado derives from the district pwoer equalization guarantee in the basic aid formula. That guarantee has been raised from $25 per pupil per mill in 1974 to $29.62 per pupil per mill in 1976, and $31.92 in 1977. This provides stabilization of general fund mill levies. The act provides for additional equalization by permitting low expenditure districts to raise their authorized revenue bases -- the revenue funding level to which state aid entitlements are required -- by a greater amount than richer districts. The other source of state fiscal equalization arises from the fairly high level of state sharing in the categorical programs that are not included in the general foundation area. At the local level, equalizing funds are those which are raised by districts which cannot raise more than $18 per pupil per mill in local school support.

Sources of Disequalization

The disequalization in the state's school aid program comes from two main sources. First, the state continues to provide minimum aid grants to school districts that can raise more than $18 per pupil per mill. In 1975 this aid amounted to some $20 million and was disbursed to 78 districts in the State. It should be noted that wealthier school districts can increase their aidable revenues per student every year through the formula and through appeal to the state school district budget review board. This action can ultimately increase the aid that is going to wealthy districts if these districts raise their school tax levies. Minimum aid is also increasing from year to year from $7 per mill in 1974 to $10.85 per pupil per mill in 1977.

The other area of disequalization occurs when local districts are so wealthy that they can raise more than $27 per pupil per mill by their local school tax effort. This means that such districts are completely out of formula and a portion of their local revenues could be liable to "recapture" if the state had a fully equalizing aid program. Also, disequalization occurs when local districts add to categorical programs for special, vocational, and bilingual education without equalized support.

Comparative Equalization Standards

Colorado would qualify under one of the two proposed equalization standards. Under the fiscal disparity test, expenditure disparities are over 80 percent between the 5th and 95th percentile districts. They still are above 50 percent when 80th and 20th percentile districts are analyzed. Moreover, since lower spending districts may receive proportionately more impact aid than higher spending units, expenditures are sometimes more equalized when impact aid is not included in basic current operating expenditures.

When the fiscal neutrality standard is applied to Colorado it appears that about 92 percent of all state-local revenues are equalized. At the local level $35 million is raised in unequalized funds. These are revenues that are raised by districts that can raise more than $27 per pupil per mill and monies that local districts raise to match or supplement categorical programs. At the state level approximately $20 million in disequalizing minimum aid is apportioned in the basic aid formula. All other categorical aids at the state level are fiscally neutral in character.

Table C-1

1975 Colorado Revenue Disparities

Percentile	Per ADAE Revenue Without P.L. 874	Per ADAE Revenue With P.L. 874
5%	1722.00	1747.00
10%	1722.00	1747.00
15%	1608.00	1644.00
85%	1063.00	1073.00
90%	1001.00	1031.00
95%	944.00	1008.00
Percentile Comparisons		
5 & 95		
$ Difference	778.00	739.00
% Difference	82.4	73.3
10 & 90		
$ Difference	721.00	716.00
% Difference	72.0	69.4
20 & 80		
$ Difference	545.00	571.00
% Difference	51.3	53.2

Source: See Attachment A.

Table C-2

1975 Colorado Revenue Disparities
(All Percentiles)

Percentile	Per ADAE Revenue With P.L. 874	Per ADAE Revenue Without P.L. 874
90%	1747	1722
80%	1358	1334
70%	1300	1285
60%	1244	1225
50%	1244	1210
40%	1190	1145
30%	1156	1137
20%	1091	1073
10%	1031	1001
Percentile Comparisons		
10 & 90		
$ Difference	716.00	721.00
% Difference	69.4	72.7
20 & 80		
$ Difference	267.00	261.00
% Difference	24.5	24.3
30 & 70		
$ Difference	144.00	148.00
% Difference	12.5	13.0
40 & 60		
$ Difference	54.00	80.00
% Difference	4.5	7.0

Source: See Attachment A.

Table C-3

Colorado 1975 State-Local School Revenues
By Equalizing Status

Revenue Item	Total Amount ($000)	Amount Unequalized ($000)
Local Property Tax	$313,535	$ 5,668*
Local Specific Ownership Taxes	25,015	25,015
Other Local Revenues and County Revenues	9,676	9,676
TOTAL LOCAL REVENUES	348,226	40,359
State Small Attendance Aid	2,600	0
State Equalization Aid	295,482	20,134**
Vocational Aid	9,500	0
Handicapped Aid	24,300	0
Transportation Aid	13,200	0
All Other	2,533	0
TOTAL STATE REVENUES	347,615	20,134
TOTAL STATE-LOCAL REVENUES	$695,841	$60,493 (8.7%)

---

* Excess local revenues raised from local school districts that can raise more than $27 per pupil per mill of tax effort

** Portion of minimum aid payments that go to districts that can raise over $18 per pupil per mill of local school tax.

Source: See Attachment A.

Attachment A

Data Sources for Colorado Equalization Tests

Data Source: Computer Card File from Colorado Department
of Education

Items Included in Analysis:

- Local Property Taxes
- All Specific Ownership Taxes
- Other Local Sources
- Total Revenue from County Sources
- Public School Finance Act (State Equalization)
- Public School Finance Act (Small Attendance Center)
- Public School Finance Act (Other)
- Vocational Education
- Education of Handicapped
- Transportation
- Aid to Migrant Education
- All Other State Sources (Excludes NDEA)
- P.L. 874
- Average Daily Attendance in Enrollment

State Reference Person; Dr. Paul Turpin, School Finance Consultant
Colorado State Department of Education

Florida

Basic Funding Program

Florida has a highly equalized system of basic school support. The mainstay of their funding program -- the Florida Educational Finance Program (FEFP) -- is an equalized funding program that neutralizes expenditure variations based on local wealth, pupil need, and cost of living differences. The State guarantees a base student allocation based on a regular 4-9 program. Furthermore, there are 26 categories of pupil need weightings with the most expensive pupil receiving a support level some 15 times greater than the pupil in the regular education program in grades 4-9. The State requires all local districts to levy a foundation tax effort of 6.3 mills to qualify for the foundation program and allocates to the districts the difference between local effort and State guarantee. Local districts are permitted to levy another 1.7 mills, but the proceeds from such a levy remain in the district. The State also adds to or subtracts from the basic aid allotments under the foundation program according to a cost of living index which is supposed to reflect education price differences among the State's 67 districts. The State also has established a number of other, smaller categorical programs which usually do not involve matching funds from local districts.

Sources of Equalization

The main source of fiscal equalization in the State derives from the basic structure of the FEFP. Some local districts do not make substantial additional local tax beyond that required by the FEFP; therefore, the bulk of local funding is equalized. Variations in educational need, and cost of living are also taken into account in in the basic State disbursements. Thus, while expenditure variations may still occur in the State, these are variations based on educational need and cost-of-living differences and do not reflect variations in local property wealth.

Sources of Disequalization

There are still some disequalizing influences in Florida's finance program. About 61 districts do levy more than 6.3 mills required by the State for participation in the foundation program. Moreover, though there is an 8 mill cap on local school tax effort in the State, districts can override that limitation by an extraordinary vote in a local referendum for a period of 2 years for all school purposes. Finally, while the State provides most of its funding through the FEFP, there is a small amount, initially about $291,000 in 1974-75, which is provided as no loss allocation money to selected districts. In short, the bulk of unequalized funding in the State-local finance program occurs when local districts raise unequalized revenues from a local school tax effort above that required by the State for participation in the foundation program.

Comparative Equalization Standards

Florida's school funding system would pass proposed equalization standards under either the fiscal disparity or fiscal neutrality test. Weighted per pupil expenditure disparities, reflecting cost-of-living adjustments were only $141 dollars between the 5th and 95th percentile districts or a disparity of some 19.66 percent. Without cost-of-living adjustments, expenditure disparities dropped to 10.34% or a difference of only $77.64 between the 5th and 95th percentile district.

Florida-3

On the neutrality standard, Florida fares equally well. At the State level, only $291,000 can be considered as disequalizing revenues. These are the monies that are provided as save-harmless funds to selected districts to insure that they do not receive any less aggregate State aid than in prior years.

At the local level, however, about $93,576,000 is raised by the local districts in unequalized tax levies. These revenues allow local districts to raise their current expenditures about levels permitted by the present foundation plan and to pay for supplements to basic and categorical programs and underwrite newly initiated local programs. Thus, almost all unequalized local revenues are contained in the monies raised by the unequalized tax levy permitted between the foundation requirement of 6.3 mills and the cap limits of 8 mills.

Florida does not count impact aid as an offest to its basic State Aid allotment.

This analysis was replicated and basically validated by the Florida Department of Education. (See Attachment B)

Since Florida qualifies under both impact aid equalization standards the exception test was not calculated for the State of Florida.

Florida-3

On the neutrality standard, Florida fares equally well. At the State level, only $291,000 can be considered as disequalizing revenues. These are the monies that are provided as save-harmless funds to selected districts to insure that they do not receive any less aggregate State aid than in prior years.

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Florida does not count impact aid as an offest to its basic State Aid allotment.

This analysis was replicated and basically validated by the Florida Department of Education. (See Attachment B)

Since Florida qualifies under both impact aid equalization standards the exception test was not calculated for the State of Florida.

Table F-1

Florida 1974-75 State-Local Revenues for Current Operating Purposes by Equalizing or Nonequalizing Status

E	Required Local Effort Under Florida Educational Finance Program (FEFP)	$487,683,000
U	Additional Unequalized Local School Tax Effort	93,577,000
E	State Contribution for FEFP	976,052,000
U	No Loss Allocation for Wealthy Districts	291,000
E	State Categorical Aid Programs*	21,740,000
	Textbooks (12,098,000)	
	Community Schools (1,474,000)	
	Exceptional Child Materials Resource Center (116,000)	
	Extended School Year (1,789,000)	
	Environmental Education(290,000)	
	Career Education (4,835,000)	
	Comprehensive Health Education (1,138,000)	
	Total State-Local Revenues	1,579,343,000
	Equalizing Revenues (E)	1,485,475,000 (94.1%)
	Unequalizing Revenues (U)	93,868,000 (5.9%)

*These are 100 percent funded State categorical aid programs. No local matching is required.

E = Equalized Revenue
U = Unequalized Revenue

Sources: Florida Department of Education, Analysis of Legislation Appropriations for Education 1975-76 and Florida Department of Education, Pupil and Financial Data - District School System 1974-75.

Table F-2

Florida Weighted Pupil Expenditure Disparities
1974-75

District	95th Percentile	5th Percentile	Dollar Difference	Percent Difference
Without Discounting Cost-of-Living Adjustment				
Palm Beach	$859.65			
Okaloosa		$718.44		
			$141.21	19.66%
With Discount of Cost-of-Living Adjustment				
Volusia	$828.78			
Dade		$751.14		
			$ 77.46	10.34%

Source: See Attachment A.

Attachment A

Data Sources of Florida Equalization Analysis

Source: Commissioner of Education, Pupil and Financial Data - District School System 1974-75 (Tallahassee, Florida, 1976)

ATTACHMENT B
FLORIDA DEPARTMENT OF EDUCATION CORRESPONDENCE
ABOUT EQUALIZATION STANDARDS

STATE OF FLORIDA
DEPARTMENT OF EDUCATION
TALLAHASSEE 32304

RALPH D. TURLINGTON
COMMISSIONER

WM CECIL GOLDEN
ASSOCIATE DEPUTY COMMISSIONER
FOR EDUCATIONAL MANAGEMENT

July 22, 1976

John J. Callahan
National Conference of State
  Legislators
Suite 702
1150 17th Street, N.W.
Washington, D.C.   20036

Dear Dr. Callahan:

This is in response to your 28 June letter to Marshall Frinks requesting review of draft Florida education finance data. As stated in that letter, the draft write-up and data would be used by HEW to evaluate proposed rule changes in the administration of Federal impact aid (P.L. 874).

We discussed the proposed write-up and data with Susan Wiley of your staff. As a result, we offered to furnish your office with a revised write-up and supporting data. We discussed our proposed response with you during our recent telephone conversation.

Accordingly, attached is a draft narrative and supporting data concerning the equalization test. The data used in determining Florida's status relative to fiscal neutrality and range of disparity are contained in the state Commission of Education's Report for the period 1 July 1974 - 30 June 1975. A copy of this report is enclosed.

We were quite happy to assist you in this analysis. If you have any questions, please call us.

Sincerely,

Link Jarrett
Link Jarrett
Associate for Policy Analysis
Public School Education

Will Connolly
Associate for Fiscal Policy Analysis
Public School Education

JC/ncj

Attachment

cc: Charles B. Reed
    W. Cecil Golden

Basic Funding Program

Florida has a highly equalized system of basic school support. In 1973, the state reformed its method of allocating funds to local school districts. The intent of the Florida Education Finance Program (FEFP), is to guarantee each student in the public school system access to programs and services appropriate to educational needs regardless of geographic or local economic conditions. Specifically, the FEFP has three major equalizing elements in the formula: First, there are 26 categories of pupil need weightings (cost factors); Second, a district cost differential designed to adjust the allocation according to inter-district cost of living variations, Third, a legislatively determined level of financial effort required of the districts (local required effort) for participation in the FEFP. For example, the cost factors in 1974-75 range from a low of .675 for Full Time Equivalent (FTE) students in the Community Service program to a high of 15.00 for FTE students in the Hospital and Homebound program. At the same time, the district cost differential varied from a 1.085 high in Dade county to a .883 low in Calhoun county. Additionally, the State required that each county levy at least 6.3 mills on 95% of the county's certified 1974 property tax roll. As implied, the local required effort reduces the state's contribution to the district program.

Equalizing Factors

The basic program contains the three major equalizing factors. Specifically, a district's funding level is calculated by application of a legislatively determined base student allocation to the total number of students enrolled in each of the 26 program cateogries (weighted FTE) and adjusted by the district's cost differential. Once the calculated program has been determined, the local required effort is deducted and the state's basic allocation is established. It should be noted that in 1974-75 the transportation, elementary counselors, and occupational specialists programs were included in basic state allocation. However, subsequent to 1974-75 there programs were classed as categorical programs and are not adjusted by either the district cost differential or the local required effort.

Equalization Standards

The proposed USOE regulations broaden the equalization test. The two major components are tests of fiscal neutrality and range of disparity. Briefly, the test criterion are:

> Fiscal Neutrality: A state's funding plan is "neutral" if no more than 10 percent of total local and state education revenue for current operations are from unequalized sources.
>
> Range of Disparity: A state's funding plan is acceptable if the percentage difference by the total local state per pupil revenue allocation in districts at the 5th and 95th percentiles does not exceed 25 percent.

Percentiles are established on a school population base. In Florida, the school population is expressed in weighted FTE. Therefore, the

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disparity measurement is established by ranking districts by per pupil revenue allocation in descending order and eliminating districts at the top and bottom of the range until at least five percent of the state school population is reached.

Equalization Standards Test

Fiscal Neutrality: Attached at enclosure one is an analysis which reveals that equalizing revenues were 94.01% and unequalizing revenues were 5.99% of total state local revenues. Therefore, for 1974-75 Florida met the fiscal neutrality test.

Range of Disparity: Attached at enclosure two is an analysis indicating that the district cost differential applied there was a 16.3% disparity between districts in the 95th and 5th percentiles. Deletion of the cost differential resulted in an 11.7% disparity between districts in the 95th and 5th percentiles. However, it is imperative to recognize that an inference cannot be made that deletion of the cost differentials results in a lower percentage of disparity.

FISCAL NEUTRALITY

ANALYSIS OF FLORIDA 1974-75 STATE - LOCAL REVENUES FOR CURRENT OPERATING PURPOSES
($ THOUSANDS)

1. Program Revenues

	$
a. Total Florida Education Finance Program (FEFP)	1,465,071.8
b. Local Required Effort	487,682.5
c. State FEFP Allocation	976,051.6
d. Property Tax Yield for Operating Purposes	582,385.2
e. State Categorical Aid Programs Textbooks (12,097.9) Community Schools (1,474.3) Exceptional Child Materials Resource Center (116.0) Safe Schools (1,778.9) Environmental Education (290.1) Career Education (4,835.0) Comprehensive Health Education (1,137.7)	21,729.9

2. Equalization Analysis

a. Total State - Local Revenues (1c + 1d + 1e)	1,580,166.7
b. Equalizing Revenues (1b + 1c + 1e) Percent of Total	1,485,465.0 94.01%
c. Unequalizing Revenues (1d - 1b) Percent of Total	94,701.7 5.99%

RANGE OF DISPARITY
FLORIDA WEIGHTED FULL TIME EQUIVALENT (WFTE) REVENUE ALLOCATION

SCHOOL POPULATION (WFTE): 1,992,529.11 5% POPULATION (WFTE): 99,626.456

DISTRICT COST DIFFERENTIAL - APPLIED

1. REVENUE ALLOCATION/WFTE - Top and Bottom 5th Percentiles - By District

a. Top

Name	Population	Alloc/WFTE	Rank
Collier	16,262.622	$ 922.42	1
Santa Rosa	14,525.869	892.28	2
Charlotte	7,229.614	890.67	3
Subtotal	38,018.105		
Palm Beach	90,483.419	854.86	4
Total	128,501.524		

b. Bottom

Name	Population	Alloc/WFTE	Rank
Calhoun	2,693.745	658.24	67
Lafayette	1,044.408	682.35	66
Gulf	3,668.172	688.97	65
Washington	6,008.933	691.65	64
Jackson	10,430.287	692.61	63
Gadsden	12,233.533	694.57	62
Dixie	2,319.157	694.88	61
Liberty	1,332.512	699.55	60
Holmes	4,116.705	701.90	59
Hardee	5,233.294	702.13	58
Hamilton	3,286.757	704.38	57
Union	1,917.930	706.96	56
Franklin	2,302.897	707.38	55
Bradford	5,568.183	707.44	54
Baker	4,034.428	709.29	53
Taylor	5,089.617	714.76	52
Gilchrist	1,894.535	715.42	51
Subtotal	73,165.093		
Okaloosa	31,579.284	717.23	50
Total	104,744.377		

DISTRICT COST DIFFERENTIAL - NOT APPLIED

1. REVENUE ALLOCATION/WFTE - Top and Bottom 5th Percentiles - By District

a. Top

Name	Population	Alloc/WFTE	Rank
Osceola	9,141.756	$ 910.16	1
Collier	16,262.622	877.94	2
Nassau	8,651.278	872.22	3
Charlotte	7,229.614	860.64	4
Indian River	11,425.438	852.53	5
Subtotal	52,710.708		
Palm Beach	90,483.419	852.12	6
Total	143,194.127		

b. Bottom

Name	Population	Alloc/WFTE	Rank
Martin	10,515.671	713.32	67
Dixie	2,319.157	735.11	66
Baker	4,034.428	737.30	65
Okaloosa	31,579.284	738.13	64
Calhoun	2,693.745	738.90	63
Clay	16,460.164	742.19	62
Bradford	5,568.183	744.63	61
Gulf	3,668.172	745.43	60
Franklin	2,302.897	749.05	59
Union	1,917.930	749.57	58
Liberty	1,332.512	749.72	57
Hardee	5,233.294	749.80	56
Lafayette	1,044.408	750.05	55
Wakulla	3,124.048	750.35	54
Gilchrist	1,894.535	750.47	53
Subtotal	93,688.428		
Brevard	70,448.417	752.06	52
Total	164,136.845		

DISTRICT COST DIFFERENTIAL - APPLIED

2.

95th Percentile	5th Percentile	Difference	
		Amount $	Percent
Palm Beach $ 834.86	Okaloosa $ 717.23	137.63	16.3%

DISTRICT COST DIFFERENTIAL - NOT APPLIED

2.

95th Percentile	5th Percentile	Difference	
		Amount $	Percent
Palm Beach $ 852.12	Brevard $ 752.06	100.06	11.7%

Kansas

Basic Funding Program

Kansas' basic aid program is founded on the concept of district power equalization. It assures that local districts that make an equal school tax effort will be guaranteed an equal expenditure level. The State divides its school districts into three enrollment categories -- under 400 pupils, 400-1100 pupils, and over 1100 pupils -- for aid purposes and guarantees smaller districts a higher level of equalized expenditure. Not all districts receive basic aid though all districts in the State share in the proceeds of the State income tax. All local districts face a set of expenditure controls that prevent increases in per pupil expenditures of more than 15 percent from year to year. Finally, the State counts impact aid as a deduction against basic State school aid. Kansas does not include special, vocational, and transportation expenses in its basic aid allotment.

Equalizing Features of the State's Aid Program

The basic form of the district power equalization aid system insures a high degree of tax expenditure equity in the State's aid law. Very wealthy districts do not receive any basic aid under the general aid system. As of 1974-75, some 48 districts did not receive any basic State aid. Expenditure limitations also prevent wealthy districts from tapping their local wealth to the disadvantage of poorer districts though these same limitations also limit the expenditure "catch-up" of the poorer districts.

The size categorizations in the school aid formula permit more aid to flow to smaller districts that have higher educational costs.

Sources of Disequalization

There are two basic sources of fiscal disequalization in the State's aid system. First, all districts share in the State income tax on the basis of origin. Thus, richer districts receive a higher level of funds from the proceeds of this revenue source. However, these aids are primarily used for local property tax reduction and are not added to the district's legally adopted general fund budget which is equalized. Secondly, special, vocational, transportation, and social security contributions by the local districts are not part of the district power equalization plan. This also has a disequalizing effect on the State's overall aid system.

Comparative Equalization Standards

Under the proposed disparity standards, Kansas would not qualify as a State with an equalizing aid program. Expenditure disparities, measured in terms of 1974-75 general fund revenue per pupil, among all districts was 60.2 percent. When broken down according to the three enrollment categories of districts, the disparities were 110.1 percent for districts below 400 enrollment, 86.7 percent for districts between 400-1100 enrollment, and 33.1 percent for districts over 1100 enrollment. These disparities included impact aid as part of State allotments. When such aid was not included, general fund revenue disparities increased among all districts rising to 65.8 percent for all districts, and 34.6 percent for districts with enrollments over 1100. Only in districts with 400-1100 pupils did the revenue disparity stay the same at 110.1 percent.

When the disparity test was conducted in general fund expenditure terms, Kansas still would not qualify under the proposed standards. With all districts in the comparison, general fund budget disparities were 45.6 percent for all districts, 77.5 percent for districts of under 400 enrollment, 61.1 percent for districts between 400-1100 enrollment, and 22.6 percent for districts over 1100 per pupils. Thus, in the large district category, districts which contained over 70 percent of statewide enrollment, general fund expenditure disparities met the existing disparity standard. (See Table K-1). When all current revenues outside of the basic aid formula were analyzed, Kansas' revenue disparities still exceeded the existing disparity standard though the basic revenue disparities were greatest in the smaller districts. (See Table K-2 through K-9).

Revenues are usually more equalized when impact aid is included as part of State aid. (See Table K-3).

Under the proposed neutrality standard, 85-92 percent of State and local revenues are of an equalized character. The variable figure depends on whether all income tax receipts are counted as fully disequalizing, partially equalizing, or completely equalizing. (See Tables K-10 and K-11). Moreover, if local levies not included in the basic equalization aid program (local levies for social security, vocational education, special education levies) were disbursed on a power equalized basis analagous to Maine's program, Kansas would very easily pass the neutrality test as currently proposed in the OE regulations.

Table K-1

Kansas General Revenue and General Fund Budget Disparities By Enrollment Class of District 1974-75

Item/Type of District	5th Percentile District	95th Percentile District	Difference Between 5th & 95th	Disparity Test
General Fund Revenues Including P.L. 874				
All Districts	$ 754	$1208	$454	60.2%
0-400 Enrollment Districts	905	1901	996	110.1
400-1100 Enrollment Districts	705	1316	611	86.7
1100 + Enrollment Districts	758	1009	251	33.1
General Fund Revenues Excluding P.L. 874				
All Districts	755	1252	497	65.8
0-400 Enrollment Districts	905	1901	996	110.1
400-1100 Enrollment Districts	732	1316	584	79.8
1100 + Enrollment Districts	762	1026	264	34.6
General Fund Budget Per Pupil				
All Districts	937	1364	427	45.6
0-400 Enrollment Districts	1174	2084	910	77.5
400-1100 Enrollment Districts	882	1421	539	61.1
1100 + Enrollment Districts	943	1157	214	22.6

Source: See Attachment A.

Table K-2

Kansas Current Revenue Per Pupil Disparities - All Districts

Percentile	All Current Revenue Per Pupil With P.L.874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
5%	$1442.87	$1445.47
10%	1310.13	1346.96
15%	1201.11	1237.88
85%	949.24	979.11
90%	903.70	915.60
95%	870.31	871.85
Percentile Comparisons		
5 & 95		
$ Difference	572.56	583.62
% Difference	65.8	66.9
10 & 90		
$ Difference	406.43	431.36
% Difference	45.0	47.1
15 & 85		
$ Difference	251.87	258.77
% Difference	26.5	26.4

Source: See Attachment A.

Table K-3

Kansas Current Revenue Per Pupil Disparities - All Districts (All Percentiles)

Percentile	All Current Revenue Per Pupil With P.L. 874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
10%	1310.13	1346.96
20%	1200.70	1217.00
30%	1198.07	1198.07
40%	1111.80	1119.88
50%	1091.41	1100.59
60%	1081.48	1084.72
70%	1020.96	1070.34
80%	984.14	1000.25
90%	903.70	915.60
Percentile Comparisons		
10 & 90		
$ Difference	406.43	431.36
% Difference	45.0	47.1
20 & 80		
$ Difference	216.56	216.75
% Difference	22.0	21.7
30 & 70		
$ Difference	177.11	127.73
% Difference	17.34	11.9
40 & 60		
$ Difference	30.32	35.16
% Difference	2.8	3.2

Source: See Attachment A.

Table K-4

Kansas Current Revenue Per Pupil Disparities - All Districts With More Than 1100 Pupils

Percentile	All Current Revenue Per Pupil With P.L. 874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
5%	1200.70	1225.58
10%	1200.70	1217.00
15%	1200.70	1217.00
85%	949.24	985.66
90%	903.70	925.63
95%	871.85	880.30
Percentile Comparisons		
5 & 95		
$ Difference	328.85	345.28
% Difference	37.7	39.2
10 & 90		
$ Difference	297.00	291.37
% Difference	32.9	31.5
15 & 85		
$ Difference	251.46	231.34
% Difference	26.5	23.5

Source: See Attachment A.

Table K-5

Kansas Current Revenue Per Pupil Disparities - All Districts With More Than 1100 Pupils (All Percentiles)

Percentile	All Current Revenue Per Pupil With P.L. 874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
10%	1200.70	1217.00
20%	1198.07	1216.49
30%	1118.13	1132.64
40%	1091.41	1100.59
50%	1081.48	1097.56
60%	1074.12	1084.72
70%	1020.96	1070.34
80%	984.14	1001.90
90%	903.70	925.63
Percentile Comparisons		
10 & 90		
$ Difference	297.00	291.37
% Difference	32.9	31.5
20 & 80		
$ Difference	213.93	214.59
% Difference	21.7	21.4
30 & 70		
$ Difference	97.17	62.30
% Difference	9.5	5.8
40 & 60		
$ Difference	17.29	15.87
% Difference	1.6	1.5

Source: See Attachment A.

Table K-6

Kansas Current Revenue Per Pupil Disparities - All Districts With More Than 400 and Less Than 1100 Pupils

Percentile	All Current Revenue Per Pupil With P.L. 874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
5%	1646.83	1646.83
10%	1438.56	1442.87
15%	1404.77	1404.77
85%	920.46	936.21
90%	871.99	880.90
95%	825.31	840.67
Percentile Comparisons		
5 & 95		
$ Difference	821.52	806.16
% Difference	99.5	95.9
10 & 90		
$ Difference	566.57	561.97
% Difference	65.0	63.8
15 & 85		
$ Difference	484.31	468.56
% Difference	52.6	50.0

Source: See Attachment A.

Table K-7

Kansas Current Revenue Per Pupil Disparities -- All Districts With More Than 400 and Less Than 1100 Pupils (All Percentiles)

Percentile	All Current Revenue Per Pupil With P.L. 874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
10%	1438.56	1442.87
20%	1358.37	1368.71
30%	1268.32	1273.07
40%	1208.19	1214.89
50%	1162.95	1165.71
60%	1097.61	1103.80
70%	1017.29	1036.29
80%	970.91	975.23
90%	871.99	880.90
Percentile Comparisons		
10 & 90		
$ Difference	566.57	591.97
% Difference	65.0	63.8
20 & 80		
$ Difference	387.46	393.48
% Difference	39.9	40.3
30 & 70		
$ Difference	251.03	236.78
% Difference	24.7	22.8
40 & 60		
$ Difference	110.58	111.09
% Difference	10.1	10.1

Table K-8

Kansas Current Revenue Per Pupil Disparities - All Districts With Enrollments of Less Than 400 Pupils

Percentile	All Current Revenue Per Pupil With P.L. 874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
5%	2215.51	2215.51
10%	1934.85	2029.45
15%	1831.75	1831.75
85%	1164.01	1164.01
90%	1129.83	1129.83
95%	1030.07	1030.07
Percentile Comparisons		
5 & 95		
$ Difference	1185.44	1185.44
% Difference	115.1	115.1
10 & 90		
$ Difference	805.02	899.62
% Difference	71.3	79.6
15 & 85		
$ Difference	667.74	667.74
% Difference	57.4	57.4

Source: See Attachment A.

Table K-9

Kansas Current Revenue Per Pupil Disparities - All Districts With Less Than 400 Pupils (All Percentiles)

Percentile	All Current Revenue Per Pupil With P.L. 874 Equalized	All Current Revenue Per Pupil With P.L. 874 Unequalized
10%	1934.85	2029.45
20%	1786.58	1786.58
30%	1613.46	1613.46
40%	1505.07	1505.07
50%	1462.38	1466.84
60%	1428.01	1428.01
70%	1296.29	1317.55
80%	1210.24	1210.24
90%	1129.83	1129.83
Percentile Comparisons		
10 & 90		
$ Difference	805.02	899.62
% Difference	71.3	79.6
20 & 80		
$ Difference	576.34	576.34
% Difference	47.6	47.6
30 & 70		
$ Difference	317.17	295.91
% Difference	25.2	22.5
40 & 60		
$ Difference	77.06	77.06
% Difference	5.4	5.4

Source: See Attachment A.

Table K-10

Dale Dennis' correspondence to Tom Johns, USOE

Kansas Estimated State & Local Operating Resources 1976-77

Equalized (E) or Unequalized (U) Resources	State & Local Resources	Dollars (in Millions)
E	General Fund Property (under Equal. Act)	252.5
E	County Foundation Levy (under Equal. Act)	16.7
U	Social Security Levy (separate fund)	28.0
U	Vocational Education Levy (separate fund)	10.3
U	Special Education Levy (separate fund)	9.8
U	Transportation Levy (separate fund)	.6
U	Workman's Compensation (separate fund)	1.0
U	Interest on Idle Funds	3.0
U	General State Aid (under Equal. Act)	209.7
U	Grandfather Clause (State Aid)	.9
?	State Income Tax Receipts	35.5
E	State Transportation Aid	17.0
E	**State Special Education Aid (based primarily on certificated employees)	13.9
E	**State Vocational Education (based on number of students)	.5
E	**State Driver Ed. Aid (based on number of students)	1.2
E	***State Food Service Aid (based on meals served)	1.7
E	Ft. Leavenworth School District	.8
	Estimated Total State & Local Operating Revenues	603.1

10% of Estimated Total State & Local Operative Revenues	$60.31	
Unequalized Resources excluding Interest on Idle Funds & Income Tax Receipts	50.60	8.
Unequalized Resources including Interest on Idle Funds & Income Tax Receipts	89.10	14.

*Tentative decision based on a visit with Mr. Tom Johns, USOE
**State Categorical Aid due to the high cost of such programs
***Required by USDA

Table K-11

Alternative Fiscal Neutrality Tests for Kansas' School Finance System

Total State-Local Operating Revenues, 1976-77	$603.1 million	
Minus		
Interest on Idle Funds	3.0	
State Food Service Aid	1.7	
Equals	598.4	
Unequalized Revenues (1st option)		
Unequalized Local Levies	49.7	
Grandfather Clause	.9	
Income Tax Receipts	35.5	
TOTAL UNEQUALIZED	86.1	(14.4% of total)
Unequalized Revenues (2nd option)		
Unequalized Levies	49.7	
Grandfather Clause	.9	
Income Tax Receipts (57.9% unequalized)*	20.6	
TOTAL UNEQUALIZED	71.2	(11.9% of total)
Unequalized Revenues (3rd option)		
Unequalized Levies	49.7	
Grandfather Clause	.9	
Income Tax Receipts (0.0% unequalized)**	0.0	
TOTAL UNEQUALIZED	50.6	(8.5% of total)

* The difference in allocations of income tax receipts to a district on point of origin or a per pupil basis

** assumes that all income tax receipts are used as local equalized effort to support their legally adopted budget

Source: See Table K-10 and Attachment A.

Kansas Attachment A

Data Sources for Disparity and Neutrality Tests

Kansas

Data Sources:

1. All revenue data: computer tape from Kansas Department of Education Budget and Financial Statement 1975-76 for each Kansas school district. (Used current year column 1974-75 for each revenue item).

Revenue Items Used:

Local -	ad valorem property tax intangible tax
County -	County school foundation (home county apportioned) County school foundation (other county apportioned)
State -	State equalization income tax rebates
Federal -	P.L. 874

Funds: ad valorem property tax: social security, vocational education, transportation, specual education, workmens compensation, co-op special education.

Funds: miscellaneous: social security, transportation, special education, workmen's compensation.

Funds other district: co-op special education

Funds vocational aid: vocational education

Funds special education: state payment special education.

Funds transportation aid: transportation

Funds home district: co-op special education.

Pupil Count: Kansas Department of Education, USD Report on Enrollments and General Fund Budget per Pupil, 1975-76.

Basic Data Layout Source: State of Kansas Budget Form No.4, 1975-76 Budget and Financial Statement.

Maine

Basic Funding Program

Maine has a two tiered school funding program. The first is a foundation program which in 1975 guaranteed school districts an average expenditure of $694 for each child in grades K-8 and $1,078 for each child in grades 9-12. All districts have to support this level of expenditure with an equalized tax rate of 13.25 mills. In addition, each district can levy an additional 2 1/2 mills "leeway" which is also equalized by the State. No district may levy and additional school funding millage above that 2 1/2 mills except that school districts may levy a "grandfather" school tax to keep their expenditures at the levels they were prior to enactment of the reform.

The basic aid formula also counts P.L. 874 funds as part of a State aid contribution. P.L. 874 deductions follow the proportionality rules laid down in P.L. 93-380.

Equalizing Features of the State's Program

There are several equalizing features to Maine's basic aid law. First, all school districts are required to levy a mandated tax rate for their contribution to operating school expenses. If this required tax rate yields more revenues than is necessary to pay for actual operating expenses, the district is required to remit the excess revenues to the State. In 1975-76, a total of $5.4 million had to be remitted to the State to pay for such aid. The state also equalized the additional 2 1/2 mill levy that districts can add to their school expenditures under the basic formula. Special education, vocational education, and transportation expenditures are included in the basic aid formula.

Disequalization Features

Maine's law has several disequalizing features. First, districts do have the option above the basic aid formula to add to their school tax rate to maintain expenditures that are above the State aid guarantee. Secondly, not all transportation or special education expenditures are included in the equalization guarantee.* These are financed by local tax levies outside of the basic guarantee. Outside of these two sources of fiscal inequity all other school finance outlays in the State are equalized.

Comparative Equalization Standards

Under the disparity test, Maine would not qualify as being able to count impact aid as part of its basic allotment. The expenditure gap between its 5th and 95th percentile district in 1974-75 operating costs per pupil was nearly $430 per pupil or a difference of 63.6 percent. However, when impact aid is not included in basic State aid, the expenditure disparity between 5th and 95th percentile would rise to 63.9 percent.

Under the fiscal neutrality test, however, the State would qualify as being able to count its impact aid. Using either revenues or expenditures for the 1975-76 aid allocation year, about 98 percent of all State and local revenues are of an equalized character. The only nonequalized revenues are those local outlays which are required to maintain prior year expenditures when they are above State average (3.2 million) and selected local special education and transportation revenues which are not included in the basic equalization guarantee.

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*These were prorated equalization programs for the year 1975-76.

TABLE ME-1
PROFILE OF STATE AND LOCAL REVENUES RAISED FOR 1975-76 AID ALLOTMENTS IN MAINE BASIC SCHOOL FINANCE PROGRAM

Type of Revenue	Description of Revenue	1974-75 Appropriation
E	State Basic Aid Payment	$ 115,318,000
E	Enrollment Increase Aid	200,000
E	State "Leeway" Aid	9,183,000*
E	Local Payment of Basic School Support Share	120,319,000**
E	Local Share of Local "Leeway" Expenditure	15,300,000
U	Local Maintenance of Effort Revenues	3,238,383
U	Unequalized Local Contribution to Special Education Expenditures	1,260,237
U	Unequalized Local Contribution to Transportation Expenditures	347,654
	TOTAL REVENUES	$259,866,274
	Total Unequalized	4,846,274
	% Unequalized	1.9%

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*Includes $4,000,000 deficit to be appropriated in 1976-77 legislative session

**Includes $5.3 million in "recapture" of local tax revenues required under basic aid program. Since this is used to fund part of the State contribution it is netted out of the Total Revenues figure.

Source: See Attachment A.

Table ME-2

1974-75 Maine Expenditure Disparities Per Pupil

Percentile	Resident Per Pupil Cost With P.L. 874 Equalized	Resident Per Pupil Cost With P.L. 874 Unequalized
5%	1096.0	1098.0
10%	1025.0	1081.0
15%	992.0	1024.0
85%	722.0	723.0
90%	713.0	713.0
95%	670.0	670.0
Percentile Comparisons		
5 & 95		
$ Difference	426.0	428.0
% Difference	63.5	63.8
10 & 90		
$ Difference	312.0	368.0
% Difference	43.8	51.6
15 & 85		
$ Difference	270.0	301.0
% Difference	37.4	41.6

Source: See Attachment A.

Table ME-3

1974-75 Maine Expenditure Disparities Per Pupil
(All Percentiles)

Percentile	Resident Per Pupil Cost With P.L. 874 Equalized	Resident Per Pupil Cost With P.L. 874 Unequalized
10%	1025.0	1081.0
20%	948.0	994.0
30%	896.0	911.0
40%	846.0	858.0
50%	822.0	833.0
60%	797.0	807.0
70%	770.0	779.0
80%	744.0	750.0
90%	713.0	713.0
Percentile Comparisons		
10 & 90		
$ Difference	312.0	368.0
% Difference	43.8	51.6
20 & 80		
$ Difference	204.0	244.0
% Difference	27.4	32.5
30 & 70		
$ Difference	126.0	132.0
% Difference	16.4	16.9
40 & 60		
$ Difference	49.0	51.0
% Difference	6.1	6.3

Attachment A

Maine Data Sources for Equalization Tests

Department of Educational and Cultural Services
Augusta, Maine
June 8, 1976

1. 1974-75 Operating Cost per Pupil With and Without P.L. 874
2. 1974-75 Average Resident Pupils By District
3. Print-out of 1975-76 Aid Allocations to all Maine school districts.

Maryland

Basic Funding Program

Maryland uses a foundation program to support local current expenses among its 24 school districts. In 1974-75, the State supported a foundation level of expenditure of $624 per pupil although the average statewide current operating expenditure was nearly $1400 per pupil in that same year. In addition to its basic aid formula, the State also funds about 90 percent of all transportation costs in the State and pays the full share of local retirement and social security costs in all the State's subdivisions. The State also will pay 70 percent of the excess cost of handicapped education costs on an equalized basis in 1975-76. The State receives a considerable amount of impact aid; howver, it does not count such aid in its basic funding formula.

Equalizing Features of the State's Aid Program

There are two basic sources of equalization in the State's aid program. First, the State does provide equalized support of current expenditures up to a level of $624 per pupil. Secondly, it fully funds teacher retirement and social security costs of local agency professional staff, and it funds virtually all (90%) of pupil transportation costs at the local level. Incidently, the State also provides about $75 per pupil in density aid, for current operating purposes, to the City of Baltimore, one of the poorer districts in the State and funds a number of smaller, miscellaneous categorical grants which generally do not involve local matching funds.

Sources of Disequalization

The main source of disequalization in the State's funding system arises from the fact that local school districts must fund all current operating expenses above the $624 per pupil level entirely from local sources. They also must fund their share of transporation and special education expenses from local sources as well. Thus, aside from their equalized contribution to current operating expenses, considerable local funding in Maryland is of an unequalized character.

Comparative Equalization Standards

Maryland would not qualify for counting impact aid under either the fiscal disparity or fiscal neutrality standard.

Per pupil current expenditure disparities, exclusive of federal funds, in Maryland range from 59.2 percent between the 5th and 95th percentile district down to 28.8 percent between the 85th and 15th percentile district. Thus, even with a modified expenditure disparity standard, it would be difficult for the State to qualify as having an "equalizing" school finance program under the proposed regulations. However, when one adds P.L. 874 funds to local current expenditures, the fiscal disparities in the State are slightly aggravated. Expenditure disparities increase to 61.5 percent for the 5th and 95th percentile districts and to 32.1 percent for the 15th and 85th percen[illegible] district. This occurs since the bulk of impact aid in the State of Maryland is concentrated in the higher spending and wealthier districts in the State, particularly Montgomery County.

Under the proposed fiscal neutrality standard, it can be determined that at least 30 percent of the State and local revenues spent for education are unequalized in character. While none of the State funding for education is disequalizing, about $356,000,000 of local educational funding for current operating expenditures occurs outside of the foundation program. This funding goes to support a variety of current operating expenditures that are not fully State supported or are supported on an unequalized basis outside of the State aid formula.

The attached charts indicate how Maryland fares under the two basic equalization standards.

Table MD-3

1974-75 Maryland Per Pupil Expenditure Disparities
(All Percentiles)

Percentile	Per Pupil Revenue Without P.L. 874	Per Pupil Revenue With P.L. 874
10%	1678.65	1731.09
20%	1374.52	1403.55
30%	1374.52	1403.55
40%	1323.57	1387.50
50%	1173.39	1247.86
60%	1143.01	1194.48
70%	1135.01	1159.28
80%	1066.99	1071.28
90%	1066.99	1071.28
Percentile Comparisons		
10 & 90		
$ Difference	611.66	659.81
% Difference	57.3	61.6
20 & 80		
$ Difference	307.53	332.27
% Difference	28.8	31.0
30 & 70		
$ Difference	239.51	244.27
% Difference	21.1	31.0
40 & 60		
$ Difference	180.56	193.02
% Difference	15.8	16.2

Attachment A

Data Sources of Maryland Equalization Tests

Basic Data Sources:

- Maryland State Department of Education, Selected Financial Data - Maryland Public Schools 1974-75, Part I and Part II

Selected Data Items:

- Detail on State Aid by School District is contailed in Table 6 of Part I of basic data source document.
- P.L. 874 Recepits for 1974-75 are contained in Table 7 of Part I of the basic data source document.
- Detail on composition of local revenue contributions for current operating expenditures is contained in Tables 2, 4, and 8 of Part I and Table 11 of Part III of the basic data source document.
- Current per pupil costs for current operating purposes is noted in Table 6 of Part III of the basic data source document.
- Pupil counts for all Maryland school districts are contained in Table 12 of Part III of the basic data source document.

Minnesota

Basic Funding System

Minnesota uses a pupil weighted foundation formula for disbursement of its basic school aid funds. In 1974-75, it guaranteed a funding level of $900 per weighted pupil unit provided that a local district levied a local tax of 30 mills on its equalized valuation. Additional aid is paid within the foundation for districts that have rapidly growing or declining enrollments and for districts with disadvantaged children and additional four districts with high concentrations of disadvantaged children.

Categorical programs in the area of transportation, vocational, and special education are funded outside of the basic aid formula. Transportation aids require an equalized one mill levy from local districts. Secondary, vocational and special education aids pay an additional share of 55-75 percent of costs approved by the State. Local outlays in these latter areas are made as needed or at the discretion of the local districts.

The State also provides considerable property tax relief through its homestead tax credit and its agricultural tax subsidy which is part of its overall school finance program. A circuit-breaker approach to tax relief has recently been enacted.

Sources of Equalization

The basic vehicle for fiscal equalization in the State's school aid system is the foundation aid formula. All districts must levy an equalized 30 mill tax to qualify for total formula aid. As of 1974-75, only 30 of the State's 440 districts were out of formula, receiving about $484,000 in save-harmless guarantees. All other districts received equalized basic aid under the formula.

The other major source of equalization occurs in the State's categorical funding system which largely provides for a major portion of transportation and special education outlays, and about 2/3 of all vocational programs.

Sources of Disequalization

Most of the unequalized school revenues occur at the local level in Minnesota. High expenditure districts can levy additional taxes to retain their expenditure at pre-reform levels, and local districts, by referenda vote, can add to their required foundation millage for additional expenditures. Finally, post-secondary area-vocational levies in Minnesota were made on an unequalized basis in 1974-75.* In total, about 18 percent of all local current revenues raised in 1974-75 in Minnesota were of an unequalized character.

At the State level, the only unequalized funds are save-harmless revenues contained in the basic aid formula. These amounted to $84,000 in 1974-75.

Comparative Equalization Standards

Minnesota's school aid system is equalized under the fiscal neutrality but not the expenditure equalization standard. In the expenditure equalization area, current expenditure disparities between the 5th and 95th percentile district were 73.3% in 1974-75. These disparities narrowed to 37.0% when the 95th and 15th percentile districts were compared. These expenditure disparities, however, are gradually being diminished as the "catch-up" provisions in the

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*Changed in 1976-77

State law begin to take full effect. This part of the State's aid law increasingly gradually raises the expenditure levels of low spending districts to State average. The full effect of these new provisions will not occur until 1978-79. By that time expenditure disparities in the State will be considerably reduced from 1974-75 levels.

Under the proposed neutrality standard, about 94 percent of all State-local current revenues are of an equalized character. Therefore, the State would be adjudged to have an equalized school aid system under the USOE fiscal neutrality standard.

Computerized data were not avalable to determine whether expenditure disparities would be more or less equalized if impact aid were counted as part of basic State foundation aid. At present, however, the State does not count P.L. 874 funds in its aid program.

TABLE MN-1
1974-75 STATE-LOCAL REVENUES BY EQUALIZATION STATUS

STATUS	REVENUE ITEM	AMOUNT ($000)	
U	Excess Maintenance Levy	$ 45,991	
U	Referenda Levy	571	
E	Basic Maintenance Levy	222,222	
E*	Local Transportation Levy	15,090	
U	Vocational Levy	5,111	
U	Save-Harmless Basic State Aid	484	
E	Equalization Aid	522,498	
E	Transporation Aid	53,700	
E	Special Education Aid	27,700	
E	Secondary Vocational Aid	10,400	
E	Miscellaneous School Aid	1,493	
	TOTAL STATE-LOCAL REVENUES	$905,260	
	EQUALIZING (E)	853,103	(94.2%)
	DISEQUALIZING (U)	52,157	(5.8%)

Source: See Attachment A.

*Bus levies, where made, are unequalized.

Table MN-2

1974-75 Minnesota Expenditure Disparities

Percentile	Expenditure per Pupil
5%	1482
10%	1423
15%	1217
85%	888
90%	875
95%	855

Percentile Comparisons	
5 & 95	
$ Difference	627
% Difference	73.3
10 & 90	
$ Difference	548
% Difference	62.6
15 & 85	
$ Difference	329
% Difference	37.0

Source: See Attachment A.

Table MN-3

1974-75 Minnesota Expenditure Disparities (All Percentiles)

Percentile	Expenditure per Pupil
10%	1423
20%	1143
30%	1085
40%	1047
50%	1014
60%	985
70%	952
80%	905
90%	875
Percentile Comparisons	
10 & 90	
$ Difference	548
% Difference	62.6
20 & 80	
$ Difference	238
% Difference	26.3
30 & 70	
$ Difference	133
% Difference	14.0
40 & 60	
$ Difference	62
% Difference	6.3

Source: See Attachment A.

ATTACHMENT A

DATA SOURCES FOR MINNESOTA EQUALIZATION STANDARD ANALYSIS

Expenditure Disparities: Minnesota State Department of Education, Update Spring, 1976

Per pupil expenditures were determined to be the sum of expenditures in the areas of:

--Administration

--Instructional Salaries

--Other Instruction

--Transportation

--Attendance and Health

--Plant Operation

--Plant Maintenance

--Fixed Charges

Fiscal Neutrality: Detailed State and local revenue data for 1974-75 school year were obtained from Mr. Walter Harvey of the Minnesota State Department of Education, Ms. Sara Peterson of Minnesota House Research Staff, and Mr. John Ostrom, staff director to the Minnesota House Education Committee.

New Mexico

Basic Funding Program

New Mexico's basic education aid program is a pupil weighted foundation aid program. All districts are required to make a mandated local tax effort to qualify for school aid and are guaranteed a set level of expenditure for 11 categories of students, based on their grade level or other pertinent educational characteristics. Local school districts cannot add to their required local school tax effort. Thus, there is no local leeway to add to the basic educational program in the State.

Equalizing Features of the State's Aid Program

There are several features of the State's aid program that insure a high level of fiscal equalization among the State's 88 school districts. First, no local district can add to its required local school tax effort under the fundation. Second, the pupil weighting system in the State guarantees that districts with concentrations of high-cost students will receive additional funding from the State. Third, districts are guaranteed additional State funding for the costs they incur in hiring experienced teachers; smaller districts are also guaranteed additional funding that is required to run small schools in isolated areas.

Sources of Disequalization

There are several sources of fiscal inequity that still remain in the State's school aid system. 5 percent of the districts' local property tax levy is not included in the State's equalization guarantee; thus, this constitutes an unequalized local tax effort under the aid system. A limited number of districts -- 2 in 1975-76 -- receive save-harmless aid under the equalization guarantee though this only amounted to 1.6% of the State's equalization aid in 1974-75. All save-harmless aid will be phased out by 1981-82, Finally, there are several small categorical aid programs whose funds are not distributed on an equalized basis.

Comparative Equalization Standards

New Mexico qualifies as an equalized aid system in terms of the proposed fiscal neutrality standard. Approximately 97 percent of all State and local revenues are equalized while 3 percent are not. Programs that are non-equalized include a number of small categorical programs, a portion of the State's equalization guarantee that is sent to save-harmless districts, and 5 percent of the district's tax levy, impact aid revenues, and motor vehicle license fees that are not included as part of the district's equalization tax contribution.

Under the proposed disparity standards, New Mexico would qualify in 1974-75 if the expenditure comparison were made between the 10th and 90th percentile district, where the disparity is 16.7 percent. By 1975-76 New Mexico meets the current expenditure disparity standard. If impact aid were not included in the disparity standard, the expenditure differences would increase to 51 percent under the 5th and 95th percentile standard and to 37 percent in the 10th and 90th percentile standard in 1974-75. Therefore, it can be seen that including P.L. 874 in the New Mexico's equalization aid system does have an equalizing impact. Exclusion of the aid would have a disequalizing impact on school expenditures in that State.

TABLE NM-1
New Mexico 1974-75 Fiscal Neutrality Test

State-Local Revenue Item	Amount ($000)	Percent Equalized	Amount Equalized	Percent NonEqualized
District School Tax	35,261	95	33,498	5
Motor Vehicle License Fees	1,453	95	1,381	5
State Equalization Guarantee	181,868	98.4	178,879	1.6
Program Enrichment	490	0	0	100.0
Regular Transportation	12,368	100	12,368	0
Special Ed. Transportation	835	100	835	0
Vocational Transportation	48	100	48	0
Other State Revenue	3,521	0	3,521	100
State Instuctional Credits	2,955	100	2,955	100
P.L. 874 Revenues	15,336	95	14,569	5
TOTAL -ALL REVENUES	254,135	97.6	248,054	2.4

Source: See Attachment A.

Table NM-2

1974-75 New Mexico Expenditure Disparities

Percentile	Revenue per WPU With P.L. 874 Equalized	Revenue per WPU With P.L. 874 Unequalized
5%	833.32	972.47
10%	748.60	906.88
15%	747.53	765.31
85%	643.20	670.02
90%	641.33	661.77
95%	634.51	645.90
Percentile Comparisons		
5 & 95		
$ Difference	198.81	326.57
% Difference	31.3	50.6
10 & 90		
$ Difference	107.27	245.11
% Difference	16.7	37.0
15 & 85		
$ Difference	104.33	95.29
% Difference	16.2	14.2

Source: See Attachment A.

Table NM-3

1974-75 New Mexico Expenditure Disparities (All Percentiles)

Percentile	Revenue per WPU With P.L. 874 Equalized	R [illegible] WPU With [illegible] qualized
10%	748.60	906.88
20%	705.75	750.43
30%	689.39	721.94
40%	684.30	710.35
50%	684.30	710.35
60%	684.30	710.35
70%	655.71	692.33
80%	650.13	674.00
90%	641.33	661.77
Percentile Comparisons		
10 & 90		
$ Difference	107.27	245.11
% Difference	16.7	37.0
20 & 80		
$ Difference	55.62	76.43
% Difference	8.6	11.3
30 & 70		
$ Difference	33.68	29.61
% Difference	5.1	4.3
40 & 60		
$ Difference	0	0
% Difference	0	0

Source: See Attachment A.

Attachment A

New Mexico Data Sources

1. Public School Finance - New Mexico 1974-75

-- All Revenue Items from this Book

Revenue Items Included

a) District school tax levy

b) Motor vehicle license fees

c) State equalization guarantee

d) Program enrichment

e) Transportation - regular

f) Transportation - special education

g) State instructional credits

h) P.L. 874

2. Work sheets from Legislative School Study Committee, New Mexico

- for weighted pupil units counts (includes sparsity units)

[illegible]
1975-76 [illegible] Finance Disparities

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
PUBLIC SCHOOL FINANCE DIVISION
SANTA FE
87501

ROOM 433
CAPITOL BUILDING

AREA CODE 505
TELEPHONE 827-2562

July 21, 1976

John Callahan, Director
Legislators Education Action Project
National Conference of State Legislators
1150 Seventeenth Street, N.W.-Suite 702
Washington, D. C. 20036

Dear Mr. Callahan:

Enclosed are data for 1975-76 as per our conversation of Monday, July 19, 1976 regarding New Mexico's qualification under Section 115.62, regulations pertaining to qualification tests appropriate to states having finance system designed to equalize expenditures.

Section 115.62 (b) allows qualification of state programs if there is a disparity of no more than 25% in revenue per pupil between the 5th and 95th percentile school districts.

We have utilized revenue sources as indicated in your memo of June 28 for 1975-76 and have computed revenue per weighted pupil. The final page of the enclosure indicates a 13.[illegible]% disparity between the 5th and 95th percentile districts with the remaining pages delineating revenue sources in keeping with those indicated by your office.

I hope this information will be sufficient for your purposes; however, if we may provide additional data, please do not hesitate to call upon us. Thanks.

Sincerely,

Al Clemmons

Dr. Al Clemmons
Administrative Assistant

AC/smt
Encl.

cc: Pat Fleming, Counsel
Education Commission of the States
Richard Johnson, Director
Legislative School Study Committee

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 PRINT E100,C043,E412,C256,D294

             DISTRICT   AD-VALOREM  75-76 EST.   TOTAL ST.   75-76 DCT.
                         TAX.REV.   MV LIC REV  30.11 REV.    REV. ENR.
ALBUQUERQUE       1       8099935      440000    63944644       97956
RESERVE           2         60746        3100      276072           0
QUEMADO           3         64976        2157      229259           0
ROSWELL           4        786069       50726     7788400      111717
HAGERMAN          5         46409        2000      475452           0
DEXTER            6         47083        5000      620463           0
LAKE ARTHUR       7         51715        1000      235987           0
CIMARRON          8        176763        2230      307584           0
RATON             9        113339        9715     1573454           0
SPRINGER         10         44280        3185      567210           0
MAXWELL          11         14058         796      223326           0
CLOVIS           12        643059       43721     6328980       59659
TEXICO           13         57153        2122      463404           0
MELROSE          14         60692        1459      297090           0
GRADY            15         34066         705      189296           0
FORT SUMNER      16         81977        4246      388473           0
LAS CRUCES       17       1040743       64612    11499237       51360
HATCH            18         62770        4169      791181           0
GADSDEN          19        377717       20682     3388702           0
CARLSBAD         20       1242803       37500     4437222       31138
LOVING           21         46074        1600      382823           0
ARTESIA          22       1329169       18119     1595099        7000
SILVER CITY      23        864683       17457     2206440        5000
COBRE CONS.      24        844260       13500     1521173        5500
SANTA ROSA       25         97358        4315      866556           0
VAUGHN           26         36889         967      273251           0
ROY              27         18308        1500      226660           0
MOSQUERO         28         25008         702      163756           0
LORDSBURG        29        143009        8000      969246           0
ANIMAS           30        173307        2460      328206           0
LOVINGTON        31       1176155       22444     1613143           0
EUNICE           32        804890        5345           0           0
HOBBS            33       1175373       58753     5331620       38098
JAL              34        590525        6279      218678           0
TATUM            35        478157        3800       74733           0
RUIDOSO          36        234846        7625      845573           0
CARRIZOZO        37         41907        2322      445565           0
CORONA           38         89758         882      149851           0
HONDO            39         37286        1359      287597           0
CAPITAN          40         77679        1547      262556           0
LOS ALAMOS       41        435844       17700     3337538           0
DEMING           42        451328       25000     2895951       72016
GALLUP           43        783835       43000     5260730       13699
MORA             44         34333        3500      878322           0
WAGON MOUND      45         29296         600      308731           0
ALAMOGORDO       46        478042       26072     5483135       34424
TULAROSA         47         45406        5500      948784           0
CLOUDCROFT       48         54698        1000      274815           0
TUCUMCARI        49        160554       17060     1678499           0
HOUSE            50         19681         621      131954           0
LOGAN            51         22220        1583      271567           0
SAN JON          52         31151        1143      204981           0
CHAMA            53         51881        3500      865510           0
DULCE            54        164142        2344      209343           0
ESPANOLA         55        126451       20730     4778183       15413
JEMEZ MOUNTAIN   56        269630        2111      284486           0
PORTALES         57        171433       18695     2191587           0
ELIDA            58         38445         853      174173           0
FLOYD            59         22668        1086      252647           0
DORA             60        104866        1809      232202           0
BERNALILLO       61        165228       17000     1814476           0
CUBA             62         81205        4000      515392           0
JEMEZ SPRINGS    63        203064        3200      168675           0
AZTEC            64        285686       10020     1454037           0
FARMINGTON       65        620028       38549     4988018       15668
BLOOMFIELD       66        610033       12457     1139452           0
CENTRAL CONS.    67       1515156       29547     1405874           0
LAS VEGAS TOWN   68        146028        8350     2519964      128111
LAS VEGAS CITY   69        188315        7526     2090406           0
PECOS            70         31158        2229      707262           0
SANTA FE         71       1006467       55000     8908480       23532
POJOAQUE         72         44965        5918     1015193           0
T. OR C.         73        182732        8693     1274423           0
SOCORRO          74        140235        8002     1575436       10500
MAGDALENA        75         38637        2300      356898           0
TAOS             76        165241       12200     2705302           0
PENASCO          77         17779        2800      739657           0
OJO CALIENTE     78         84598        1300      502547           0
QUESTA           79        172154        4200      733289           0
ESTANCIA         80         66858        4206      477309           0
MORIARTY         81         80711        5550      743301           0
MOUNTAINAIR      82         59625        2560      360057           0
ENCINO           83         33584         504      142557           0
CLAYTON          84        125463        6674      872011           0
DES MOINES       85         25473        1170  [illegible]           0
LOS LUNAS        86        225515       15500     2675764           0
BELEN            87        629203       16000     2529566           0
GRANTS           88        356465       22000  [illegible]           0

         [illegible]  [illegible] [illegible] [illegible] [illegible]
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-82-

?PRINT D100,C944,C945

DISTRICT		75-76 BASE REVENUE	75-76 BASE REV UNIT
ALBUQUERQUE	1	78904976	742.76 -- 50th %ile
RESERVE	2	420539	722.30 -- lowest
QUEMADO	3	356559	760.15
ROSWELL	4	9322670	748.81
HAGERMAN	5	577005	769.97
DEXTER	6	725549	752.51
LAKE ARTHUR	7	316661	771.83
CIMARRON	8	526055	770.13
RATON	9	1789439	733.56 --2
SPRINGER	10	690817	784.49
MAXWELL	11	257292	756.16
CLOVIS	12	8349960	757.04
TEXICO	13	577662	777.10
MELROSE	14	428940	823.43
GRADY	15	278771	874.71
FORT SUMNER	16	555782	823.11
LAS CRUCES	17	14168386	749.71
HATCH	18	931512	749.78
GADSDEN	19	4182073	768.60
CARLSBAD	20	6375868	751.17
LOVING	21	381704	753.33
ARTESIA	22	3277464	779.45
SILVER CITY	23	3340325	765.53
COBRE CONS.	24	2565529	765.04
SANTA ROSA	25	1103259	800.86
VAUGHN	26	326599	738.76 --2
ROY	27	283654	801.61
MOSQUERO	28	218803	810.00
LORDSBURG	29	1198862	751.82
ANIMAS	30	599467	846.75
LOVINGTON	31	3004351	765.09
EUNICE	32	866520	831.52
HOBBS	33	6956934	744.23
JAL	34	873678	771.46
TATUM	35	638446	837.54
RUIDOSO	36	1219933	762.49
CARRIZOZO	37	530787	742.70
CORONA	38	303341	889.31
HONDO	39	372651	796.31
CAPITAN	40	393990	800.16
LOS ALAMOS	41	4653884	752.66
DEMING	42	3678363	770.22
GALLUP	43	11136121	784.93
MORA	44	1065504	797.76
WAGON MOUND	45	379896	781.90
ALAMOGORDO	46	7004129	746.48
TULAROSA	47	1431933	757.82
CLOUDCROFT	48	406706	786.47
TUCUMCARI	49	1997959	754.63
HOUSE	50	188494	867.12
LOGAN	51	342534	811.05
SAN JON	52	294607	868.29
CHAMA	53	1039204	760.63
DULCE	54	717610	854.64
ESPANOLA	55	5679122	750.93
JEMEZ MOUNTAIN	56	782292	881.17
PORTALES	57	2542335	744.54
ELIDA	58	262129	861.90
FLOYD	59	314506	796.73
DORA	60	423656	884.57
BERNALILLO	61	2912430	775.34
CUBA	62	1149110	884.62
JEMEZ SPRINGS	63	598346	823.13
AZTEC	64	1897279	752.46
FARMINGTON	65	6121764	739.22 --2
BLOOMFIELD	66	2492089	837.91
CENTRAL CONS.	67	5711098	968.74
LAS VEGAS TOWN	68	3010259	782.16
LAS VEGAS CITY	69	2487625	757.23
PECOS	70	817858	757.09
SANTA FE	71	10868611	748.41
POJOAQUE	72	1314141	771.84
T. OR C.	73	1627033	772.57
SOCORRO	74	1916248	753.46
MAGDALENA	75	597565	747.63
TAOS	76	3181930	747.65
PENASCO	77	857279	758.98
OJO CALIENTE	78	697753	813.37
QUESTA	79	989442	759.44
ESTANCIA	80	663684	839.28
MORIARTY	81	1019383	847.49
MOUNTAINAIR	82	497774	810.58
ENCINO	83	198002	788.96
CLAYTON	84	1208482	844.67 -- 95th %ile
DES MOINES	85	341145	877.52
LOS LUNAS	86	3306143	766.24
BELEN	87	3530290	759.07
GRANTS	88	4609583	763.82
-----	3916	268067145	69404.51

95th %ile $844
50th %ile 742
13.7%

```
?PRINT E100,C944,C945

                 DISTRICT  75-76 BASE  75-76 BASE
                             REVENUE    REV UNIT
ALBUQUERQUE          1     78904976     742.76-- 5th %ile
RESERVE              2       420539     722.30-- lowest
QUEMADO              3       356559     760.15
ROSWELL              4      9322670     748.81
HAGERMAN             5       577305     769.97
DEXTER               6       725549     752.51
LAKE ARTHUR          7       316661     771.83
CIMARRON             8       526055     770.13
RATON                9      1789439     733.56 -- L
SPRINGER            10       690817     784.49
MAXWELL             11       257292     756.16
CLOVIS              12      8349960     757.04
TEXICO              13       577662     777.10
MELROSE             14       428940     823.43
GRADY               15       278771     874.71
FORT SUMNER         16       555782     823.11
LAS CRUCES          17     14168386     749.71
HATCH               18       931512     749.78
GADSDEN             19      4182073     768.60
CARLSBAD            20      6375868     751.17
LOVING              21       381704     753.33
ARTESIA             22      3277464     779.45
SILVER CITY         23      3340325     765.53
COBRE CONS.         24      2565529     765.04
SANTA ROSA          25      1103259     800.86
VAUGHN              26       326599     738.76 -- L
ROY                 27       283654     801.61
MOSQUERO            28       210803     810.00
LORDSBURG           29      1198862     751.82
ANIMAS              30       599467     846.75
LOVINGTON           31      3004351     765.09
EUNICE              32       866520     831.52
HOBBS               33      6956934     744.23
JAL                 34       873678     771.46
TATUM               35       638446     837.54
RUIDOSO             36      1219933     762.49
CARRIZOZO           37       530787     742.70
CORONA              38       303341     889.31
HONDO               39       372651     796.31
CAPITAN             40       393990     800.16
LOS ALAMOS          41      4653884     752.66
DEMING              42      3678363     770.22
GALLUP              43     11136121     784.93
MORA                44      1065504     797.76
WAGON MOUND         45       379896     781.90
ALAMOGORDO          46      7004129     746.48
TULAROSA            47      1431933     757.82
CLOUDCROFT          48       406706     786.47
TUCUMCARI           49      1997959     754.63
HOUSE               50       188494     867.12
LOGAN               51       342534     811.05
SAN JON             52       294607     868.29
CHAMA               53      1039204     760.63
DULCE               54       717610     854.64
ESPANOLA            55      5679122     750.93
JEMEZ MOUNTAIN      56       782292     881.17
PORTALES            57      2542335     744.54
ELIDA               58       262129     861.90
FLOYD               59       314506     796.73
DORA                60       423656     884.57
BERNALILLO          61      2912430     775.34
CUBA                62      1149110     884.62
JEMEZ SPRINGS       63       598346     823.13
AZTEC               64      1897279     752.46
FARMINGTON          65      6121764     739.22 -- L
BLOOMFIELD          66      2492089     837.91
CENTRAL CONS.       67      5711098     968.74
LAS VEGAS TOWN      68      3010259     782.16
LAS VEGAS CITY      69      2487625     757.23
PECOS               70       817858     757.09
SANTA FE            71     10868611     748.41
POJOAQUE            72      1314141     771.84
T. OR C.            73      1627033     772.57
SOCORRO             74      1916248     753.46
MAGDALENA           75       597565     747.63
TAOS                76      3181930     747.65
PENASCO             77       857279     758.98
OJO CALIENTE        78       697753     813.37
QUESTA              79       989442     759.44
ESTANCIA            80       663884     839.28
MORIARTY            81      1019383     847.49
MOUNTAINAIR         82       497774     810.50
ENCINO              83       198002     788.96
CLAYTON             84      1208482     844.67-- 95th %ile
DES MOINES          85       341145     877.52
LOS LUNAS           86      3306143     766.24
BELEN               87      3530290     759.07
GRANTS              88      4609583     763.82
    ----
                  3916    269067145   69404.51
```

95th %ile $844.6
5th %ile 742.76
13.7 %

North Dakota

Basic Funding Program

North Dakota uses a pupil weighted foundation program to provide support for current operating expenditures for local schools. The State aids school districts for the first $640 of current operating expenditures with higher amounts of aid going to smaller districts and to high school districts. Equalzition for the foundation program is derived from State aid, a county wide equalized school tax of 20.5 mills and a required local school tax of 20.0 mills. Transportation expenditures are included in the basic foundation program.

The State also provides 100 percent funding of the approved costs of special education and vocational education programs. All non-approved local costs are derived from unequalized local levies.

Local districts are prohibited from levying a school tax of more than 24 mills without voter authorization though three mills may be levied by the local district for a special reserve fund which may be used as source of money to anticipate tax revenue. The fund is replinished when local taxes are paid. Otherwise local districts can exceed the 24 mill limit by as much as 75 percent (an additional 16 mills) upon a 60 percent majority vote at a local referenda. Districts with more than 4,000 pupils can exceed the 24 mill limit by a specific amount with a 60 percent majority vote in a local referendum.

North Dakota counts about 20 percent of impact aid as an offset to its basic State aid.

Source of Equalization

The basic source of fiscal equalization in the State program occurs within the context of its foundation program. Local levies up to the $640 per weighted pupil units are equalized from a combination of Federal, State, and local funds. The bulk of special and vocational educational outlays are also equalized by the State assuming 100 percent of the approved costs of such programs.

Sources of Disequalization

Fiscal disequalization in the State's school funding system stems from several basic sources. At the State level, a per pupil save-harmless clause guarantees each school district a per pupil aid payment equivalent to what it would have received had it maintained its prior year pupil count. Thus, declining enrollment districts do receive some disequalizing aid from the county equalization fund. All local outlays that occur above the foundation level and that are within the school tax limits are also unequalized as well. Unequalized levies also may be made for special and vocational education programs outside of the aforementioned tax limits.

Comparative Equalization Standards

North Dakota does not qualify under either the proposed disparity or equalization standard for counting impact aid in their basic allotment.

In the disparity test, there is a 55.0 percent difference between the levels of the 5th and 95th percentile district among all school districts in the State.* When districts are broken down according to three distinct size classes, there is a 41.5 percent disparity in expenditures for all districts over 1,000 pupils, a 62.6 percent disparity in expenditures among all districts with enrollments between 150 and 1,000 pupils, and a 106.0 percent disparity between districts with enrollments of less than 150. However, when impact aid is not included in the State aid allotment fiscal disparities are aggravated. Disparities in all districts increase to a level of 56.7 percent. They increase to 49.7 percent for all districts with more than 1,000 pupils, and to 64.9 percent for all districts with enrollments of between 150 and 1,000. In the smaller districts, however, revenue disparities actually decrease dropping to 97.0 percent.

On the fiscal neutrality standard, it appears that about 88 percent of all State and local current revenues are of an equalizing character. This includes all State equalization funds, a substantial portion of local property taxes raised as mandated funds for the foundation program, the proceeds of the county equalization levy, and State categorical grants in the special and vocational education area. Disequalizing funds occur with the proceeds of the local levy that exceed foundation mandates and with county taxes raised from oil and gas production and miscellaneous revenue proceeds.

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*This assumes full equalization of impact aid.

Table ND-1

North Dakota 1974-75 State-Local
Educational Revenue by Category

	Status		
1.		Local Property Tax	23,854,202
	E	Foundation Requirement	13,302,959
	U	Unequalized Levy	10,551,243
2.	U	Taxes in Lieu of Personal Property	109,649
3.	E	County Equalization Tax	13,968,108
4.	U	County Oil and Gas Revenues	1,271,261
5.	U	Misc. County Revenue	649,185
6.	E	Foundation Program Payment	54,443,863
7.	E	Foundation Program Transportation	4,050,832
8.	E	Vocational Education Payments	1,499,814
9.	E	Special Education Payments	1,020,346
10.	E	P.L. 874 Payments	4,159,409 *

Total	101,699,140	
Equalizing	89,117,802	(87.6)
Unequalizing	12,581,338	(12.4)

*20% ($831,880) of impact aid is equalized and is included in total revenues.

Source: See Attachment A.

Table ND-2

1974-75 North Dakota Revenue Disparities
All Districts

Percentile	Revenue Per ADM With P. L. 874 Equalized	Revenue Per ADM With P. L. 874 Unequalized
5%	$ 1040.93	$ 1068.11
10%	960.85	1057.73
15%	960.85	1023.76
85%	705.40	728.82
90%	705.40	709.70
95%	671.63	681.49
Percentile Comparisons		
5 & 95		
$ Difference	$ 369.30	$ 386.62
% Difference	55.0%	56.7%
10 & 90		
$ Difference	255.45	348.03
% Difference	36.2	49.0
15 & 85		
$ Difference	255.45	294.94
% Difference	36.2	40.5

Source: See Attachment A.

Table ND-3

1974-75 North Dakota Revenue Disparities
All Districts - All Percentiles

Percentile	Revenue Per ADM With P. L. 874 Equalized	Revenue Per ADM With P. L. 874 Unequalized
10%	$ 960.85	$ 1057.73
20%	929.78	948.53
30%	883.13	918.19
40%	853.54	865.08
50%	828.02	839.94
60%	789.59	815.07
70%	747.65	773.34
80%	721.70	751.18
90%	705.40	709.70
Percentile Comparisons		
10 & 90		
$ Difference	255.45	348.03
% Difference	36.2	49.0
20 & 80		
$ Difference	208.08	197.35
% Difference	28.8	26.3
30 & 70		
$ Difference	135.48	144.85
% Difference	18.1	18.7
40 & 60		
$ Difference	63.95	50.01
% Difference	8.1	6.1

Source: See Attachment A.

Table ND-4

1974-75 North Dakota Revenue Disparities School Districts With ADM More Than 1000

Percentile	Revenue Per ADM With P.L. 874 Equalized	Revenue Per ADM With P.L. 874 Unequalized
5%	960.85	1057.73
10%	960.85	1057.73
15%	960.85	1057.73
85%	705.40	751.18
90%	705.40	709.70
95%	679.10	706.43
Percentile Comparisons		
5 & 95		
$ Difference	281.75	351.30
% Difference	41.5	49.7
10 & 90		
$ Difference	255.45	348.03
% Difference	36.2	49.0
15 & 85		
$ Difference	255.45	306.55
% Difference	36.2	40.8

Source: See Attachment A.

Table ND-5

1974-75 North Dakota Revenue Disparities
School Districts With ADM More Than 1000
(All Percentiles)

Percentile	Revenue Per ADM With P. L. 874 Equalized	Revenue Per ADM With P. L. 874 Unequalized
10%	960.85	1057.73
20%	926.77	942.96
30%	926.77	942.96
40%	853.54	865.08
50%	853.54	865.08
60%	759.41	815.07
70%	732.41	796.66
80%	705.40	762.12
90%	705.40	709.70
Percentile Comparisons		
10 & 90		
$ Difference	255.45	348.03
% Difference	36.2	49.0
20 & 80		
$ Difference	221.37	180.84
% Difference	31.4	23.7
30 & 70		
$ Difference	194.36	146.30
% Difference	26.5	18.4
40 & 60		
$ Difference	94.13	50.01
% Difference	12.4	6.1

Source: See Attachment A.

Table ND-6

1974-75 North Dakota Revenue Disparities
School Districts With ADM More Than 150 & Less Than 1000

Percentile	Revenue Per ADM With P. L. 874 Equalized	Revenue Per ADM With P. L. 874 Unequalized
5%	1044.27	1094.95
10%	980.96	1044.27
15%	947.41	989.04
85%	716.98	716.98
90%	684.75	690.99
95%	642.37	663.92
Percentile Comparisons		
5 & 95		
$ Difference	401.90	431.03
% Difference	62.6	64.9
10 & 90		
$ Difference	296.21	353.28
% Difference	43.3	51.1
15 & 85		
$ Difference	230.43	272.06
% Difference	32.1	37.9

Source: See Attachment A.

Table ND-7

1974-75 North Dakota Revenue Disparities
School Districts With ADM More Than 150 & Less Than 1000
(All Percentiles)

Percentile	Revenue Per ADM With P.L. 874 Equalized	Revenue Per ADM With P.L. 874 Unequalized
10%	$ 980.96	$ 1044.27
20%	913.70	947.41
30%	859.76	881.59
40%	840.67	855.24
50%	816.37	818.03
60%	793.95	794.44
70%	754.72	760.32
80%	727.68	727.73
90%	684.75	690.99
Percentile Comparisons		
10 & 90		
$ Difference	296.21	353.28
% Difference	43.3	51.1
20 & 80		
$ Difference	186.02	219.68
% Difference	25.6	30.2
30 & 70		
$ Difference	105.04	121.27
% Difference	13.9	15.9
40 & 60		
$ Difference	46.72	60.80
% Difference	5.9	7.7

Source: See Attachment A.

Table ND-8

1974-75 North Dakota Revenue Disparities
School Districts With ADM Less Than 150

Percentile	Revenue Per ADM With P.L. 874 Equalized	Revenue Per ADM With P.L. 874 Unequalized
5%	1367.69	1367.69
10%	1246.18	1246.18
15%	1142.29	1167.33
85%	762.11	762.11
90%	721.26	725.90
95%	663.82	694.19
Percentile Comparisons		
5 & 95		
$ Difference	703.87	673.50
% Difference	106.0	97.0
10 & 90		
$ Difference	524.92	520.28
% Difference	72.8	71.7
20 & 80		
$ Difference	380.18	405.22
% Difference	49.9	53.2

Source: See Attachment A.

Table ND-9

1974-75 North Dakota Revenue Disparities
School Districts With ADM Less Than 150
(All Percentiles)

Percentile	Revenue Per ADM With P.L. 874 Equalized	Revenue Per ADM With P.L. 874 Unequalized
10%	1246.18	1246.18
20%	1099.02	1099.02
30%	1030.80	1054.98
40%	996.17	999.59
50%	931.36	934.26
60%	894.61	901.08
70%	843.66	843.79
80%	789.86	789.86
90%	721.26	725.90
Percentile Comparisons		
10 & 90		
$ Difference	524.92	520.28
% Difference	72.8	71.7
20 & 80		
$ Difference	309.16	309.16
% Difference	39.1	39.1
30 & 70		
$ Difference	187.14	211.19
% Difference	22.2	25.0
40 & 60		
$ Difference	101.56	98.51
% Difference	11.4	10.9

Source: See Attachment A.

Attachment A

North Dakota Data Sources for Equalization Tests

Data Source:

Computer tape North Dakota school district Master Financial tape 1974-75

Revenues Included:

Local -	property tax tax in lieu of property tax
County -	county equalization oil and gas production tax misc. county revenue
State -	state tuition apportionment foundation program per pupil payment foundation program transportation vocational education special education other state revenue
Federal -	P.L. 874

Pupil Count: ADM includes K-12

Rhode Island

Basic Funding System

Rhode Island uses an open-ended basic school aid program which provides for equalized State support of local current operations expenditures. The State guarantees at least 30 percent support of local current operations expenditure by a local district and there is no upper limit on the State share of support for a district's expenditures. Additional basic aid is given for school district consolidation.

All 40 school districts share in the basic school aid program with 11 units receiving 30 percent support of their basic current operating expenditures. This State support ratio ranges up to 73 percent for the district of Burrillville in Northwestern Rhode Island. In 1974-75, over 95% of all State school aid was channeled through the basic school aid formula.

Outside of the basic school aid formula, the State has three categorical aid programs for special education, vocational education, and disadvantaged children. All three categorical aid programs are distributed without local matching requirements.

The State does not count P.L. 874 as a deduction against basic school aid. In 1974-75 about 22 districts received P.L. 874 funds with the bulk of such monies being concentrated in Middletown, North Kingston, and Newport school districts.

Sources of Equalization

The structure of Rhode Island's school support is highly equalizing. School districts face no expenditure limits yet they are entitled to a State basic school aid entitlement at whatever expenditure they choose to make for their schools. State categorical programs also cover 100 percent of approved cost and therefore, no unequalized local levies are required for participation in these programs.

Sources of Disequalization

The only major source of fiscal disequalization in the State's school support system arises from the minimum State aid payments that are made to wealthier districts to insure them a 30 percent State support level for their current school operations. Eleven districts received such aid in 1974-75; this support amounted to $4.0 million dollars in State support by 1976-77. There are no other unequalized funds in the State school support system although four of the State's school districts are so wealthy that they would not qualify for any State support under the basic school aid formula.

Comparative Equalization Standards

Rhode Island would qualify as a State with an equalized school finance system under the fiscal neutrality but not the expenditure disparity standard.

Only about 2 percent of all State-local revenues for current operating purposes are unequalized. These unequalized funds are in the category of State save-harmless aid. If the local current revenues from the four school districts that are out of the State aid formula are added to these outlays, the percentage of unequalized State-local revenues would only increase to a level of 2.5 percent.

Rhode Island-3

When expenditure disparities are measured, there is a 58.6 percent disparity between the 5th and 95th percentile district. This disparity is increased slightly when impact aid funds are added to local school current operations expenditures.

Table RI-1

1974-75 Rhode Island Expenditure Disparities

Percentile	Per ADM Cost Without P.L. 874	Per ADM Cost With P.L. 874
5%	1486.00	1488.00
10%	1486.00	1488.00
15%	1367.00	1372.00
85%	979.00	1010.00
90%	962.00	962.00
95%	937.00	937.00
Percentile Comparisons		
5 & 95		
$ Difference	549.00	551.00
% Difference	58.6	58.8
10 & 90		
$ Difference	524.00	526.00
% Difference	54.5	54.7
15 & 85		
$ Difference	388.00	362.00
% Difference	39.6	35.8

Source: See Attachment A.

Table RI-2

1974-75 Rhode Island Expenditure Disparities
(All Percentiles)

Percentile	Per ADM Cost Without P.L. 874	Per ADM Cost With P.L. 874
10%	1486.00	1488.00
20%	1367.00	1372.00
30%	1246.00	1286.00
40%	1212.00	1245.00
50%	1178.00	1182.00
60%	1125.00	1180.00
70%	1109.00	1120.00
80%	1031.00	1035.00
90%	962.00	962.00
Percentile Comparisons		
10 & 90		
$ Difference	524.00	526.00
% Difference	54.5	54.7
20 & 80		
$ Difference	336.00	337.00
% Difference	32.6	32.6
30 & 70		
$ Difference	137.00	166.00
% Difference	12.4	14.8
40 & 60		
$ Difference	87.00	65.00
% Difference	7.7	5.5

Source: See Attachment A.

Table RI-3

Fiscal Neutrality Analysis for Rhode Island State-Local Revenues

Revenue Items	Total Amount	Total Amount Unequalized
State Revenues		
State Foundation Aid	$75,021	$ 4,010*
State Disadvantaged Aid	2,093	0
State Handicapped Aid	957	0
State Vocational Aid	265	0
All Other	29	0
Total State Revenues	$78,365	$ 4,010
Local Revenues		
Local Revenues for Operating Expenditures Minus State Aid and Minus P.L. 874 Funds	$124,764	$ 1,356**
Total State-Local Revenues	$203,129	$5,366 (2.1% Unequalized)

*State Minimum aid as of 1976-77.
**Current Operating Revenues for 4 Districts that are completely out of formula minus P.L. 874 funds and State aid.

Source: See Attachment A; also correspondence from Cynthia Ward, Coordinator of Research and Evaluation, Rhode Island Department of Education.

Attachment A

1974-75 Rhode Island Data Sources for Comparative Equalization Standards

Data Source:

1974-1975 - Statistical Tables State of Rhode Island Department of Education

Operating expenditures	Table FO-6
P.L. 874	Table FO-4
ADM	Table FO-6

Virginia

Basic Funding Program

Virginia uses a basic foundation aid program for disbursement of the bulk of its state school support. It also relies on several other categorical aid programs for support of specific local current operating expenditures. Major categorical programs occur in the areas of special education, vocational education, and transportation. Smaller aid programs support gifted and talented programs, superintendents salaries, and expenditures in districts which have above average spending levels. A small amount of "save-harmless" monies are also appropriated in the states basic aid program.

Local school districts are required to raise local revenues in support of the foundation program, set at $687 per pupil in 1974-75. Local districts also may raise additional unequalized local revenues above foundation program levels for regular day school programs. They also may raise additional monies for local support of particular categorical programs.

The state received $41.9 million in P.L. 874 funds in 1974-75. The state does not count impact aid as part of its basic aid formula.

Sources of Equalization

There are three types of equalizing school funds in Virginia. The first is that part of the state's basic aid program which supports local current expenditures in local school districts that cannot raise $687 per pupil from local resources. The second type of equalizing fund is the local revenue that is applied to the foundation program in the aforementioned districts. Finally, most state categorical aid programs pay all or a high uniform share of selected program costs. These categorical aids, then, are classified as equalized in character.

Sources of Disequalization

There are also three types of disequalizing funds in the state's school support system. The first is "save-harmless" aid which amounted to $13.9 million budgeted for 1974-75.* This aid is provided so that no district will receive less basic aid than it did in the 1971-72 school year. The second type of disequalizing state aid occurs in the inventive payment program which simply pays districts that spend above state average expenditure levels five percent of such excess expenditures. This aid amounted to $6.0 million in 1974-75. The final type of disequalizing monies occurs at the local level. This money is raised locally for support of regular day programs above the $687 foundation level and for local enrichment of special categorical programs. These minies were approximately $330 million in 1974-75.

Comparative Equalization Standards

Virginia does not qualify as an equalizing school support state under either the fiscal disparity or the fiscal neutrality standard. Expenditure disparities between the 5th and 95th percentile districts were 67.3 percent in 1974-75. However, these disparities were increased with the addition of P.L. 874 funds to 74.4 percent. This reflects the fact that P.L. 874 funds in Virginia flow to relatively high spending districts.

On the fiscal neutrality standard, it appears that about $332 million is raised in unequalized funds at the state and local

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*$9.6 million was eventually appropriated for this purpose in 1974-75.

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There are also three types of disequalizing funds in the state's school support system. The first is "save-harmless" aid which amounted to $13.9 million budgeted for 1974-75.* This aid is provided so that no district will receive less basic aid than it did in the 1971-72 school year. The second type of disequalizing state aid occurs in the inventive payment program which simply pays districts that spend above state average expenditure levels five percent of such excess expenditures. This aid amounted to $6.0 million in 1974-75. The final type of disequalizing monies occurs at the local level. This money is raised locally for support of regular day programs above the $687 foundation level and for local enrichment of special categorical programs. These minies were approximately $330 million in 1974-75.

Comparative Equalization Standards

Virginia does not qualify as an equalizing school support state under either the fiscal disparity or the fiscal neutrality standard. Expenditure disparities between the 5th and 95th percentile districts were 67.3 percent in 1974-75. However, these disparities were increased with the addition of P.L. 874 funds to 74.4 percent. This reflects the fact that P.L. 874 funds in Virginia flow to relatively high spending districts.

On the fiscal neutrality standard, it appears that about $332 million is raised in unequalized funds at the state and local

*$9.6 million was eventually appropriated for this purpose in 1974-75.

levels. $20 million of such money is raised at the state level and $312 million is raised at the local level. This constitutes over 30 percent of all state-local revenues used for current operating programs in the state of Virginia. Therefore, the considerable amount of local revenue raised outside the foundation program is the major factor in Virginia not being able to qualify under the neutrality standard.

Table V-1

1974-75 Virginia Expenditure Disparities

Percentile	Per Pupil Operating Cost With P.L. 874 Equalized	Per Pupil Operating Cost With P.L. 874 Unequalized
5%	1289.59	1349.65
10%	1237.44	1349.65
15%	1237.44	1349.65
85%	802.30	817.92
90%	778.89	806.87
95%	770.96	773.93
Percentile Comparisons		
5 & 95		
$ Difference	518.63	575.72
% Difference	67.3	74.4
10 & 90		
$ Difference	458.55	542.78
% Difference	58.9	67.3
15 & 85		
$ Difference	435.14	531.73
% Difference	54.2	65.0

Source: See Attachment A.

Table V-2

1974-75 Virginia Expenditure Disparities (All Percentiles)

Percentile	Per ADM Operating Cost With P.L. 874 Equalized	Per ADM Operating Cost With P.L. 874 Unequalized
10%	1237.44	1349.65
20%	1237.44	1245.19
30%	1026.58	1075.06
40%	1009.80	1030.66
50%	920.93	952.50
60%	884.27	897.44
70%	849.49	862.16
80%	812.78	827.20
90%	778.89	806.87
Percentile Comparisons		
10 & 90		
$ Difference	458.55	542.78
% Difference	58.9	67.3
20 & 80		
$ Difference	424.66	417.99
% Difference	52.2	50.5
30 & 70		
$ Difference	177.09	212.90
% Difference	20.8	24.7
40 & 60		
$ Difference	125.53	133.22
% Difference	14.2	14.8

Source: See Attachment A.

Table V-3

Fiscal Neutrality Calculations for Virginia, 1974-75

Revenue Item	Total By State-Local Source State	 Local	Unequalized Revenue By State-Local Source State	 Local
Day-school Expenditures Less Food Service	$394,392	$612,258	$ 20,001*	$309,562**
Other Educational Programs	-	2,602	-	2,602**
Teacher Retirement	65,329	-	0	-
Total	459,721	614,860	20,001	312,164
Grand Total	1,074,481		332,165 (30.9%)	

* This consists of $6.0 million in incentive aid payments to districts spending above State average and $13 million in no-loss aid to guarantee school districts the level of 1971-72 aid payments.

** This consists of all local revenues raised in support of enumerated programs that are raised outside of the State foundation program. A total of $302,966 was requried to be raised locally for support of the basic foundation program in 1974-75.

Source: See Attachment A.

Attachment A

Data Sources for Virginia Equalization Analysis

Data Sources:

Annual report 1974-75
Superintendent of Public Instruction

Total cost of operation regular day school (less food services): Table 32

ADM to determine cost of operation per pupil: Table 37

P.L. 874: from 25th Annual Report of Commissioner of Education Administration of P.L. 874 and P.L. 815 June 30, 1975 Table 1.

Outside the foundation aid program, Washington has six major "categorical" aid programs which provide support for children requiring special education, vocational-technical education, compensatory education, services in state institutions, transportation, and school food services. Aid for special education supports 95 percent of allowed and approved "excess" costs. Aid for transportation provides 80 percent of approved costs. All other categorical programs supply 100 percent support.

Sources of Equalization

The structure of Washington's aid system is not very equalizing. The foundation aid system only provides 49.4 percent of general fund revenues. And while the categorical grant programs require little or no local match, they provide only 20 percent of all current operations aid.

Sources of Disequalization

Washington's school finance system is disequalized primarily by its reliance on discretionary and unequalized special levy taxes. During 1975-76, special levy taxes supplied over $207 million out of $1.1 billion in general fund revenues for education.* Other sources of disequalization are the state's special levy relief program which distributes funds regardless of local wealth, and miscellaneous unequalized local revenues.

*The $207 million was after a roll back from $242 million, the difference being State appropriations for special levy relief.

Comparative Equalization Standards

Washington would not qualify as a State with an equalized school finance system either under the fiscal neutrality standard or the expenditure disparity standard.

Presently only 71.2 percent of all state-local revenues for current operating purposes are equalized. It is expected, moreover, that there will be even less equalization in coming years if the State's local districts must continue to rely on unequalized local property taxes for basic school support.

When expenditure disparities are considered, there is a 81.1 percent difference between the 5th and 95th percentile local education agencies. The 1974-75 current expenditure in the 5th percentile school system is $1,830 over pupil; the current expenditure in the 95th percentile system is $1,010.

Table W-1

1974-75 Expenditure Disparities for Washington School Units

Percentile	Per Pupil Expenditure*
5th	$1830.00
10th	1666.00
15th	1599.00
85th	1084.00
90th	1046.00
95th	1010.00
Percentile Comparisons	
5 & 95	
$ Difference	820.00
% Difference	81.2
10 & 90	
$ Difference	620.00
% Difference	59.2
15 & 85	
$ Difference	515.00
% Difference	47.5

*Includes Federal funds.

Source: Brian Benzel, Washington State Department of Public Instruction.

Table W-2

Washington Fiscal Neutrality Analysis by State-Local Funds

Type of Revenue **	Amount ($000)	Amount Unequalized ($000)
Local Property Tax	$208,431	$208,431
Joint District Property Tax	9,372	9,372
Total Local Taxes	217,803	217,803
County Real Estate Transaction Tax	32,888	0
High School District Fund	85	85
Sale of Tax Title Property	315	315
In-Lieu-of Taxes	308	0
Leasehold Excise Tax	802	401
County Forest Funds	148	37
Other County Funds	80	0
Total County Funds	34,626	838
State Special Levy Relief	48,540	48,540
All Other State Aid*	626,340	0
Total State Funds	674,880	48,540
Total State-Local Funds	927,309	267,181 (28.8%)

*Does not include State aid for adult education or school lunchroom reimbursement

**Final Budget for 1975-76

Source: See Table W-1

PART 5: IMPACT AID

THURSDAY, JUNE 30, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 9:30 a.m., in Room 2175, Rayburn House Office Building, the Hon. Carl D. Perkins (Chairman of the Subcommittee) presiding.

Members present: Representatives Perkins, Mottl, Corrada, Kildee, and Quie.

Staff present: John F. Jennings, majority counsel, Nancy L. Kober, staff assistant, and Christopher T. Cross, minority senior education consultant.

Chairman PERKINS. The meeting will come to order.

I want to introduce one of our outstanding Members of Congress, Mr. McClory. You take the chair, Mr. McClory, and introduce your witnesses.

STATEMENT OF HON. ROBERT McCLORY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS; ACCOMPANIED BY CHARLES THOMAS, SUPERINTENDENT OF SCHOOLS, AND DON SCHERWAT, BUSINESS MANAGER, ELEMENTARY SCHOOL DISTRICT 64, NORTH CHICAGO, ILLINOIS

Mr. MCCLORY. I have asked Dr. Charles Thomas, and Mr. Don Scherwat to accompany me this morning.

Chairman PERKINS. Mr. McClory has been one of the most outstanding supporters of impact aid, and also a supporter of all other aspects of education all through the years. His work has meant victory for us in many instances.

I am delighted to welcome our colleague, Mr. McClory, to the Committee and you gentlemen.

[The prepared statement was read by Mr. McClory:]

STATEMENT OF THE HONORABLE ROBERT McCLORY
MEMBER OF CONGRESS

Before The
SUBCOMMITTEE ON ELEMENTARY, SECONDARY
AND VOCATIONAL EDUCATION

COMMITTEE ON EDUCATION AND LABOR

U.S. HOUSE OF REPRESENTATIVES

On
THE IMPACT AID PROGRAM

June 30, 1977

Mr. Chairman: I appreciate this opportunity to come before you today and to testify on the important topic of Impact Aid. Since the adoption of Public Law 81-874 in 1950, the federal government has recognized its responsibility to provide financial assistance to local school districts which are significantly and adversely affected by certain federal activities, such as military installations and federal agencies. This sound policy which has been in effect for the past 27 years is now threatened by the drastic cuts proposed by President Carter. I urge you to reject any attempts to adversely alter this beneficial and well-proven program.

According to the Office of Education, school assistance for federally impacted areas in the State of Illinois amounted to $9,073,000 in FY '76. Approximately 30 percent of this figure was the Category A and Category B Entitlement for school districts located within the Congressional District which I represent. Without the $2,515,225 Entitlement these local school districts received, there would be no choice but to raise local taxes astronomically while at the same time decreasing the quality of education offered pupils in these districts.

One of the major justifications the Carter Administration advances for decreasing Impact Aid funding is a fallacious one. It is the Administration's argument that Impact Aid should be reduced and Title I expanded. The President does not want to compensate school districts where children live on private property in the community and therefore their parents pay local property taxes to support the local school district. However, fellow Colleagues, it is important for all concerned to realize that approximately half of the tax base in this country is from non-residential property. Therefore, it is not only reasonable, but equitable, that non-tax assessed federal operations such as military installations should make an "in lieu of taxes" payment to local school districts. To expect local school districts to provide a decent education for children whose parents live on or who work at federal jobs on property which is exempt from local taxation without a contribution from the federal government is unconscionable.

In my Congressional District, the 13th of Illinois, and in the adjacent two Congressional Districts, we have several military and governmental installations which impact on local school districts. The Great Lakes Naval Training Center, Fort Sheridan, and the Veteran's Administration Hospital in North Chicago all would create detrimental financial burdens without the Impact Aid Program.

In the case of the North Chicago School District #64, for example, the Great Lakes Naval Training Center lies within the district boundaries. The Base uses one-half of the geographical area and it has been estimated that if assessed for tax purposes, it would be more than twice the assessed district value of $66-million. Thus, this federal installation is the largest non-taxpaying employer in the North Chicago School District. The 597 military and civilian children who attend local schools are entitled to $201,000.00 in Impact Aid payments. If cut, this means that local taxpayers would have to borrow approximately $336.00 for each of the 597 children whose parents work on the federal Base.

In addition to the example of the North Chicago district, all of the surrounding school districts are also affected by the Naval Training Center, Fort Sheridan or the VA Hospital. And it stands to reason that most of these children would not be there if it were not for federal activity.

Assume for a moment, Colleagues, that we do reduce the Impact Aid Program in accordance with the President's recommendations. There is absolutely no way in which the local school districts within my Congressional District could maintain the existing level quality education without some type of "in lieu of taxes" payments from the federal government. In the Waukegan School District #60, for example, it is anticipated that without Impact Aid it would be necessary to cut 27 teachers and support staff. And, who is it that ultimately loses? The children of parents serving the federal government are the ones who are deprived the quality education they deserve. This is discriminatory and unfair -- both to the school children and the local taxpayers.

In conclusion, I believe strongly that Public Law 81-874 should be fully funded and administered as originally enacted. When the federal government creates a situation which deprives local municipalities tax revenue, while at the same time creating a situation which demands increased expenditures on the part of local entities, the federal government has an obligation to provide the necessary financial assistance to remedy this situation. There is a 27-year history of the federal government recognizing this obligation and fulfilling it. We now have a well-proven and much-needed program established. For this Congress to consider adversely altering this program without replacing it with some measure equally as valuable in providing quality education would be -- in my view — disastrous!

Mr. McClory. I might say for the most part, we have a great many blacks and Latinos and those who are deserving of the education which the Impact Aid Program supports.

I would be happy to answer any questions which you and your colleagues might have.

Chairman Perkins. Let me ask, Mr. McClory, do you want to call on your superintendent for a statement?

Mr. McClory. I would be glad to have Mr. Thomas speak.

Chairman Perkins. Identify yourself for the record and make your statement.

STATEMENT OF CHARLES THOMAS, SUPERINTENDENT OF SCHOOLS, ELEMENTARY SCHOOL DISTRICT 64, NORTH CHICAGO, ILL.

Mr. Thomas. Charles Thomas, Superintendent of Schools, North Chicago, Lake County, Illinois. I have been Superintendent in North Chicago for the past 4 years. During that time, we have made significant strides in the area of school desegregation in the area of providing compensatory education for the disadvantaged youngsters of our district.

Approximately 25 percent of our annual budget comes from the Federal Government. Approximately 50 percent of our youngsters are connected as a result of Great Lakes Naval Station being in our district. So we are heavily impacted.

So anything the Federal Government does as to reduction of funds jeopardizes our offering of equal education opportunities to all the youngsters in our district. I should add approximately 50 percent of our youngsters are minority youngsters. Even with that percentage we have effectively desegregated our schools and we feel we are offering a quality program under adverse circumstances.

So I, too, would strongly urge Members of the Committee and of Congress to afford every effort by the Administration to not reduce impact aid because it is very, very important to us in Chicago.

Chairman PERKINS. You say about 50 percent of your students are black?

Mr. THOMAS. Yes.

Chairman PERKINS. To what extent would you have to increase taxes, assuming that the Congress did away with the "B" category?

Mr. THOMAS. We would have to increase our taxes enough to raise approximately $200,000, which is the amount which it is being reduced by, which would mean a significant increase in assessed valuation which we don't have. We would have to reduce approximately 20 teachers in our district.

Chairman PERKINS. There is considerable difference between Montgomery County, Maryland, and the area you are presently describing. I am just wondering whether it would be possible to come up with funds without increasing taxes in the area where you are school superintendent. Knowing the value and resources within the county and the city, you still couldn't get by. Is that your statement?

Mr. THOMAS. Yes, sir. The fact of the matter is that we base our budget significantly on the receipt of impact aid funds. If Category B were cut out, that means there would be approximately $200,000 we wouldn't get. Our tax rate is the lowest provided by law. It is 92 cents per $100 of assessed valuation. Any reduction would hurt us.

To compare us with Montgomery County, Maryland, in my judgment, wouldn't be a favorable comparison.

Chairman PERKINS. That was my point. It is not a fair comparison, in any sense of the word. Many people just look at the situation around in the suburban areas of Washington and don't pick the situation in Huntsville, Alabama, or in your county where you are school superintendent.

I can see quite a different viewpoint, myself. I think I can see the good that has come from category B in all districts in the country. In fact, the GAO has never found where the money has been misspent to any degree in the whole impacted program.

As a general rule, I think it has worked well. But if there is any area where we need to make any correction, can you give the Committee your views, right now?

Mr. THOMAS. There needs to be, perhaps, some differentiation relative to those situations such as ours, as opposed to if we have to reduce Category B, out of Cook County. Our situation is very close and tight knit. Our community is heavily populated by blue-collar workers. We are talking about the average family income in the neighborhood of about $12,000 a year. It is a low-income area; it is not a white-collar, high-income area.

The fact of the matter is, we need every penny we can get for education.

Chairman PERKINS. Thank you.

Mr. McClory, do you have anything else to add?

Mr. McCLORY. I would ask unanimous consent to leave with your Committee, for your records, a copy of a couple of brochures which show the integrated nature of the school board; and also the fact that two Naval personnel serve as school board members. This demonstrates the extent of the participation of the Navy personnel.

Chairman Perkins. Without objection.

[The brochures referred to follow:]

DISTRICT 64 NEWS NOTES and QUOTES

Volume 4 No.5 North Chicago, Illinois June 1977

DISTRICT ANNOUNCES SUMMER PROGRAMS

DISTRICT 64

District 64 will be a busy place this summer. For the students, three different programs will be offered: Summer School, Summer of Success (SOS) and the Summer Band Program. Many of the faculty will be working on curriculum projects. In addition, there will be the routine building maintenance activities in preparation for next year.

SUMMER SCHOOL

Again this summer Title I ESEA federal funds will be used to provide a summer program for K-8 pupils from our Title I target schools (Neal, Forrestal, Katzenmaier and Novak-King). Federal regulations will permit only youngsters from these school to attend the program. Individualized instruction in the basic skills areas will be given to students on a prescriptive basis. The program will begin June 15 and end on July 20. All classes will be held at Katzenmaier School.

SUMMER OF SUCCESS (SOS)

This new federally funded program is aimed primarily at June graduates who have been identified as having some weaknesses in one or more basic skills area. The program is designed to attack weaknesses on an individual prescriptive basis. Hopefully youngsters who are considered "high risk" students will enter high school with improved skills and a greater capacity to do high school work. Summer of Success will be offered at Neal Junior High School from June 15 through July 20.

SUMMER BAND

Beginning and advanced band will be offered at Neal Jr. High. The program will run from July 11 through August 12. The program is self supporting. A family tuition plan will be used: $25.00 for the first member of a family and $10.00 for each additional member of the family in the program.

CURRICULUM DEVELOPMENT

Selected faculty committees will be preparing curriculum guides for all grades in Language Arts, Social Studies and Vocal Music. Work on curriculum guides in Math and Physical Education has already begun.

Also Donna Richardson, District 64 Library Media Specialist, will be developing a Library Media Center at Forrestal School this summer.

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IMPORTANT DATES THIS SUMMER

June 13	Board of Education Meeting	7:45 p.m.
15	Summer School Begins A. J. Katzenmaier School-Title I Neal Jr. High - Summer of Success	
July 11	Board of Education Meeting	7:45 p.m.
11	First Day of Summer Band - Neal	
20	Last Day of Summer School	
Aug. 12	Last Day of Summer Band - Neal	
15	Board of Education Meeting	7:45 p.m.
29	Teachers' Workshop	
30	Teachers' Workshop	
31	Student Registration	
Sept. 1	First Day of School	

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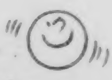
have a safe
and happy
summer vacation



FROM THE SUPERINTENDENT'S DESK

Dr. Charles R. Thomas

Last summer several goals were established for the district to achieve during the 1976-77 school year. Some were a bit ambitious perhaps, but nevertheless goals were set toward which we worked this past year.

They were: 1) all youngsters would gain at least one year of growth in both reading and math, 2) positive parental involvement would be expanded in a significant way, 3) parents' knowledge of educational programs would increase substantially, 4) district administrator workshops (conferences) would be continued and expanded, 5) at least two articles would be published about successful programs in the district, and 6) the district would operate efficiently, with high quality programs and a balanced budget.

A close examination of the activities in our district this past year will show that the 1976-77 school year was highly productive. We believe that our first three goals are interrelated. Significant progress was made toward the achievement of all three. Administrator workshops were held and we believe our administrators are some of the best trained in the area. To date only one article has been published. It was entitled "Desegregation: What Makes It Work?". The article describes the school desegregation program in District 64. It appeared in the ILLINOIS SCHOOL BOARD JOURNAL. We started the year with a balanced budget. Indications are that we will end the year with a balanced budget. This is due to planning and efforts by all staff members to conserve materials and it is due to increase management efficiency on the part of administrators.

Because of the nature of the above mentioned goals, many of them shall be our goals for the 1977-78 school year. In addition, I believe that student academic achievement is closely related to 1) the parents' knowledge of the academic program being taught and 2) the parents' commitment to support and actually help students academically at home. During the 1977-78 school year, we will be working to solidify a positive academic support network involving the home (parents) and the school (teachers and administrators).

DISTRICT 64 SCHOOL BOARD

(L. TO R. FRONT) LT. CMDR. IVAN [illegible], NAVY REPRESENTATIVE, MRS. AUDREY [illegible], PRESIDENT MRS. MARJORIE P. HART, MRS. EVELYN ALEXANDER, SECRETARY, MR. WILLIAM [illegible], (BACK) [illegible] LIBASCI, NAVY REPRESENTATIVE, MR. TONY GLOGOVSKY, REV. MARK [illegible] AND MR. JOSEPH [illegible].

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The Board of Education consists of seven elected members and two appointed Navy representatives. The elected members serve three year terms. The Navy representatives serve in an advisory capacity. The Board's primary role is to establish policy and to provide funds for the operation of the school system. Another very important responsibility of the Board is that of appointing a Superintendent of Schools to run the school system.

The Board meets regularly twice each month on Monday evenings, usually the second and fourth Monday. The meetings are open and public attendance is encouraged.

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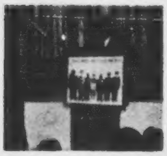
HIGHLIGHTS

The staff of the Neal Gazette, a student published newspaper, includes (l to r) Tammy King, 8-5, Lori Vose, 8-14, Kathy Graham, 8-13, David Jones, 8-10, Fred Acosta, 8-9 and Ben Alexander, 8-8.



Students at South School listen as Fred Connolly, Jr., Chief Adult Probation Officer of Lake County, reveals some of the interesting experiences he has encountered on the job.

Seventh grade cheerleaders (l to r) Nadine Connors, Cheryl Weaver, Valerie Roberts, Kim Branch and Tracie Whyte.

The 7th grade team includes: Fred Acosta, Mike Clayborne, Garth Collins, David Epps, Elliott Hampton, Elbert Hanna, Darryl Hill, Clive Hood, Larry Johnson, Lee Moore, Anthony Moss, Tracy Pierson, Sam Smith, Victor Vaughn and Eric Williams. Coached by Willard Brown.

District 64's South School is treated by a famous visitor from Washington, Congressman Robert McClory. This group of second graders listen intently as the Congressman makes a point as teacher aid Hazel Moore and Principal Joe Ulch look on.

Teacher John Berger and student Carla Boisser, 8-13 stand next to her Rock Display at the Neal Science Fair.

Second grade teacher at North School, Eileen Feiler, works on a project she will use in the classroom. Mrs. Feiler is creating her project in a teacher center.

Mrs. I. Roberta Bell, nationwide lecturer on famous Black personalities, comes to North Chicago's North School to talk and exhibit her collection of well known dolls. Through these dolls, which she has created, Mrs. Bell reveals some of the many contributions made by the Black community to the growth of the United States.

Eighth grade cheerleaders are: front, Stacey Nelson, Debbie Greathouse, Antoinette Dobbs; middle, Tammy Bartley, Syreeta Miller and back, Lisa Cowin.

Members of Neal Junior High School Grade 8 Basketball team includes: Ben Alexander, Ron Allen, Garland Bone, Ken Brackett, Anthony Coleman, Greg Ford, James Hood, Bryan Jones, Steve Johnson, Sam Foster, Anthony Myers, Orlan Rae, Maurice Williams, and Managers Everett Tillis and Cassius Jarrett. Coached by Jeff Holmes.

news notes

Neal Junior High School Graduation has been officially set for **Monday**, June 6, 1977 at 2:00 p.m. and 4:00 p.m.

Mrs. Majorie P. Hart was re-elected president of the District 64 Board of Education and **Mrs. Evelyn Alexander** was re-elected secretary.

Mr. Joseph Bakshis is the newest member of the District 64 Board of Education. He was born and raised in North Chicago. He was educated in the public elementary and high schools in North Chicago. Mr. Bakshis is also a graduate of Illinois State University and is currently employed by the North Chicago Police Department.

Superintendent Charles R. Thomas recently authored an article entitled "Desegregation: What Makes It Work?", which appeared in the January-February issue of the **Illinois School Board Journal**.

Excellence in Education was the theme of Reverend Jesse L. Jackson's message to the North Chicago School-Community. Jackson, National President of Operation PUSH, appeared at Neal Junior High School on April 1. The program was sponsored by the School-Community Liaison Aides of the federally funded Title VII program.

Mrs. Evelyn Alexander, secretary of the Board of Education, was recently selected "Mother of the Year" at the University of Illinois Urbana Campus.

SCHOOL CALENDAR 1977-78

Monday	August 29	Teachers' Workshop
Tuesday	August 30	Teachers' Workshop
Wednesday	August 31	Registration
Thursday	September 1	First full day of classes
Monday	September 5	Labor Day
Friday	September 9	Teachers' Workshop
Monday	October 10	Columbus Day
Wednesday	October 19	Parent Conference Day Noon Dismissal No Lunch
Friday	November 11	Veterans Day
Wednesday	November 16	Parent Conference Day Noon Dismissal No Lunch
Thursday	November 24	Thanksgiving Vacation begins
Monday	November 28	School reopens
Monday	December 19	Winter Vacation begins
Tuesday	January 3	Winter Vacation ends Schools reopen
Wednesday	January 18	Parent Conference Day Noon Dismissal No Lunch
Monday	February 20	Interdistrict Workshop
Tuesday	March 21	Parent Conference Day Noon Dismissal No Lunch
Friday	March 24	Spring Vacation begins
Monday	April 3	Schools reopen
Friday	May 26	Teachers' Workshop Noon Dismissal No Lunch
Monday	May 29	Federal Memorial Day
Tuesday	May 30	Illinois Memorial Day
Thursday	June 15	Last Day of School

If the five emergency days included in the calendar are not needed, the school board may specify an earlier closing date.

[redacted]

HANDBOOK

for

ELEMENTARY SCHOOL DISTRICT 64

NORTH CHICAGO, ILLINOIS

Serving

THE CITY OF NORTH CHICAGO

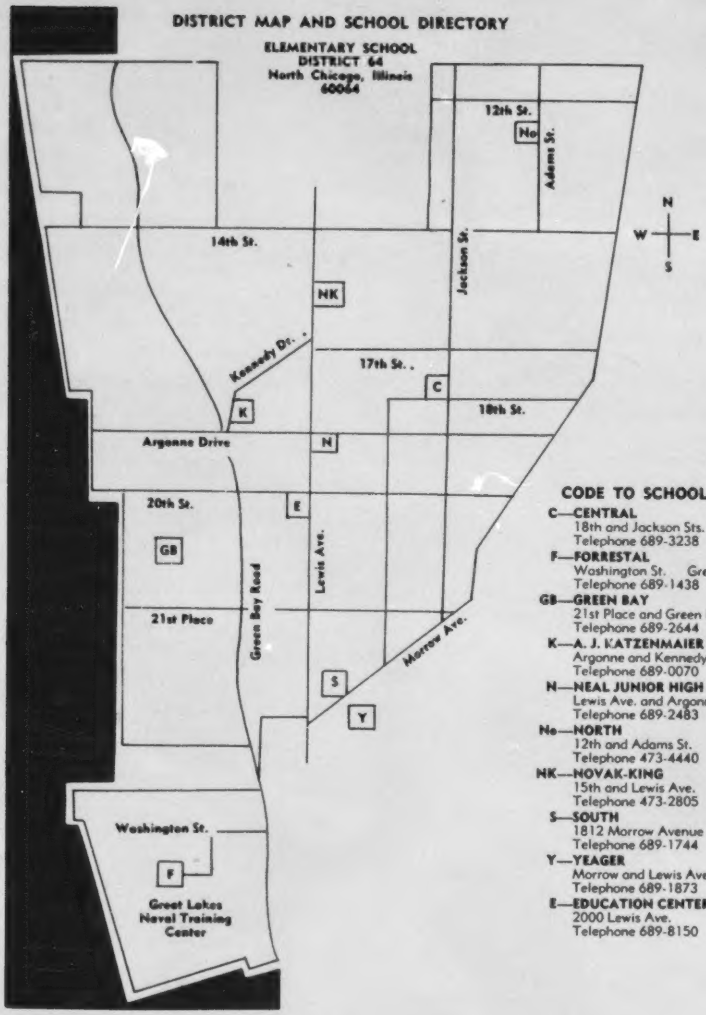
GREAT LAKES NAVAL TRAINING CENTER
HEADQUARTERS
NINTH NAVAL DISTRICT

VETERANS ADMINISTRATION HOSPITAL
CHICAGO MEDICAL SCHOOL
OF NORTH CHICAGO

"... THE DEVELOPMENT OF EACH CHILD TO THE MAXIMUM OF HIS CAPABILITIES."

DISTRICT MAP AND SCHOOL DIRECTORY

ELEMENTARY SCHOOL
DISTRICT 64
North Chicago, Illinois
60064



CODE TO SCHOOLS

C—CENTRAL
18th and Jackson Sts.
Telephone 689-3238

F—FORRESTAL
Washington St. Great Lakes
Telephone 689-1438

GB—GREEN BAY
21st Place and Green Bay Rd.
Telephone 689-2644

K—A. J. KATZENMAIER
Argonne and Kennedy Drive
Telephone 689-0070

N—NEAL JUNIOR HIGH
Lewis Ave. and Argonne Drive
Telephone 689-2483

No—NORTH
12th and Adams St.
Telephone 473-4440

NK—NOVAK-KING
15th and Lewis Ave.
Telephone 473-2805

S—SOUTH
1812 Morrow Avenue
Telephone 689-1744

Y—YEAGER
Morrow and Lewis Aves.
Telephone 689-1873

E—EDUCATION CENTER
2000 Lewis Ave.
Telephone 689-8150

NORTH CHICAGO PUBLIC SCHOOLS
Elementary School District
64
2000 Lewis Avenue
North Chicago, Illinois 60064
(312) 689-8150

Dear Parents:

This handbook provides information which is of concern to civilian and military families with school age children in the North Chicago and Great Lakes areas. It describes our educational facilities, educational programs, and student services.

While this handbook answers many questions about our school system, it is recognized that certain problems may arise and some families will have unique educational needs. These kinds of problems can best be worked out through direct contact with the principals of the schools.

It is recommended that this handbook be kept throughout the year for reference purposes. Since schedules, fees, etc., are subject to change, that information is not included in this publication.

We think education in our school system is exciting and productive. We invite you to be a part of this important experience.

Sincerely,

Charles R. Thomas

Charles R. Thomas
Superintendent of Schools

SCHOOL DISTRICT 64 - OVERVIEW

School District 64 has a student population of over 3800 students and this figure varies during the course of the year. Students that attend the schools in the district are from a variety of ethnic and minority groups and these youngsters reside in the North Chicago community and the Great Lakes Naval Training Center.

Approximately ½ of the student body are military dependents living on the naval base.

North Chicago, which is located 40 miles north of Chicago, has long been proud of its school system and the citizens have continually supported the schools and participated in numerous student-parent-school activities.

School District 64 services students from Kindergarten through grade eight with nine buildings, one educational center and a maintenance garage.

The central administrative staff and building principals have an average in-district tenure of 13 years, and the average faculty members' in-district time is approximately six years. Over the years the policy has been to seek and employ teachers from various universities who have been exposed to a multi-racial and multi-cultural setting in their college and teaching experiences.

The curriculum and instructional program is current and is continuously being revised and up-dated to insure the youngsters are exposed to the highest quality of educational programs.

BOARD OF EDUCATION AND ADMINISTRATION

The Board of Education consists of seven elected members and two appointed Navy representatives. The elected members serve three year terms. The Navy representatives serve in an advisory capacity. The Board's primary role is to establish policy and to provide funds for the operation of the school system. Another very important responsibility of the Board is that of appointing a Superintendent of Schools to run the school system.

The Board meets regularly twice each month on Monday evenings, usually the second and fourth Monday. The meetings are open and public attendance is encouraged.

ELEMENTARY PROGRAM GRADES K-6

The curriculum and instructional programs in our schools are state approved, and reviewed yearly. In addition to the regular programs, enrichment services as well as remedial services are provided. These programs are housed in eight modern buildings.

The kindergarten readiness program organizes experiences to help the child's adjustment to school work and to further develop positive social concepts through group experiences at that level. The elementary curriculum provides for extensive experiences in reading and language arts, social studies, mathematics, science, physical education, art, and music. Instrumental music is offered on an individual basis starting at grade five. Emphasis is given to developing positive social attitudes as well as in developing the knowledge and skills in academic subjects. Good citizenship is also stressed in our schools.

Supportive services to the instructional programs that are available in each building includes a full time principal, secretary, teacher clerk, nurse, reading teacher, physical education teacher, vocal music teacher, and speech therapist. Other supportive services are provided via psychologists, audio-visual coordinator, art coordinator. Library Media Centers are being developed in all K-6 buildings as part of our continuing instructional services improvement program.

With the exception of kindergarten and junior high school, the length of the school day is the same for all schools with starting and dismissal hours varying slightly to accommodate busing schedules.

Specific information regarding bus schedules, class day, lunch program, entrance requirements, registration date, and other information about school activities may be obtained by calling your child's school or by calling the Educational Services Center.

NEAL JUNIOR HIGH SCHOOL - GRADES SEVEN and EIGHT

Neal Junior High School is a complete, effective, and attractive educational facility named in honor of the Neal Family of North Chicago. Three generations of this family have served on the Board of Education for a total of over fifty years.

Neal offers a comprehensive educational program to the seventh and eighth grade students. The students and the staff at Neal are truely a mirror of the North Chicago-Great Lakes school community, in that it is multi-racial and multi-ethnic. This thoroughly integrated junior high school has an outstanding total school staff committed to helping youngsters.

EDUCATIONAL PROGRAM SECOND TO NONE

At Neal the three R's are still basic. Language arts (English, reading and spelling) and social studies (history in grade seven and civics in grade eight) are taught in a block-time arrangement sixteen periods per week. Life science is taught to seventh graders and the popular Time, Space and Matter course is provided for eighth graders five periods weekly. Math is taught in both grades. The majority of the students are given the regular math program taught by a competent corps of teachers. Special instructional programs include remedial reading, speech correction and special education (SEDOL).

Supplementing the basic educational program are Home Arts (foods, clothing, domestic activities) and Industrial Arts (drafting, printing, leatherwork, metals, plastics, power mechanics, woodworking). In addition, a semester of Art and a semester of Music are offered four periods per week. The students are exposed to an extensive variety of creative media in both Music and Art. Physical Education, including a unit in Health, meets four periods weekly rounding out the course offerings at Neal.

The Neal Library Media Center has expanded to meet the individual needs of today's challenging student. Audio-Visual materials can now be used along with an excellent selection of books and magazines. Individualized units and group listening stations are now a familiar sight in this modern and productive Media Center. Filmstrips, tapes, transparencies and records have also a place in this popular and frequently used facility.

There are many other interesting and educational activities conducted during and after school at Neal and they include: Art Club, Audio-Visual Club, Band, Basketball, Boys Survival Club, Chorus, Field Trips, Girls Leathercraft, Girls Shop, Intramural Sports, Modern Dance, Play Production, Reading Club, Science Fair, String Art and Student Council.

Neal's educational program is designed with the students in mind. The staff is there, the facilities are excellent and the students are eager — this combination is a winner.

SPECIAL EDUCATIONAL SERVICES - SEDOL

District 64 is a member district of the Special Education District of Lake County (SEDOL), wherein 42 member school districts in Lake County have joined together to provide educational services for the handicapped children residing in each district. All children between the ages of three and twenty-one deemed eligible for special education are entitled to a specially designed educational program to meet the individual needs of each student. In addition to membership in SEDOL, all of the member districts are members of a regional program for students with hearing impairments. This regional program includes SEDOL, the Waukegan School District, and all of McHenry County.

A diagnostic evaluation, or review, is made on all children who are referred to SEDOL by District 64. The majority of evaluations may be conducted by any one or a combination of the following professionals: psychologist, education diagnostician, physical therapist, occupational therapist, audiologist, speech therapist, and psychiatrist.

The largest component of the SEDOL staff is made up of the teachers employed to provide direct instructional services to the students determined eligible for special educational programs. The teachers are assigned in accordance with their training and certification to the following categories: visually impaired, deaf and hard of hearing, physically handicapped, multiple handicapped, trainable mentally handicapped, educable mentally handicapped, learning disabilities, behavorial disorders, learning opportunities program, and early childhood program.

In addition to the instructional services provided, many of the students have additional needs that may require additional supportive services. The following services may be provided: social workers, psychologists, speech therapists, physical therapists, occupational therapists, and pre-vocational counselors.

As a cooperative, SEDOL receives its authority from the local district. It is at the local school district level that all decisions are made relative to providing services for children residing in a given district.

Based upon this premise, a referral procedure has been established whereby the local school district maintains the sole responsibility for all referral to SEDOL. Any parent who feels he has a child in need of special education services should contact the building principal for further information.

BILINGUAL-BICULTURAL EDUCATION

Bilingual and bicultural classes are another essential segment of the curriculum for Spanish-American students.

A program of instruction is provided and taught in the native language for these students of limited English speaking ability. Instruction is carried out using both English and Spanish in all subjects except in cultural studies, which is taught in the dominant language.

A parent advisory group helps plan the yearly program and regular meetings are held. This advisory committee is composed of a majority of parents of students in the program.

HEALTH SERVICE

The health department is a complete, functional unit utilizing a part-time doctor and five full-time registered nurses assigned to the nine school buildings. Health care services include a dental check program, make-up immunization program, vision and audio testing, and health care taught in conjunction with physical education. Health services are conducted only with parental permission, except on occasions when emergency first aid treatment may be required. Another important aspect of the health service is nurse referral of students who may require specialized aid in any area. For further information, contact a nurse in one of the nine buildings.

STUDENT REGISTRATION

To enter kindergarten, a youngster must be five years of age by December first of that school year. To enter first grade, a youngster must be six years of age by December first of that school year. A birth certificate is necessary to enter kindergarten or to enter first grade if the youngster has not previously attended kindergarten.

A child who has been in regular attendance in another school district, provided he was not a resident of District 64 at that time, may be enrolled without meeting the age requirement.

Each youngster shall be required to have a complete physical examination, by a licensed physician upon entering kindergarten or first grade, upon entering fifth grade, and upon entering school in any grade from out of state. In addition to the physical examination, each youngster prior to or upon entering kindergarten or first grade and any pupil first entering school in any public, private, or parochial school in this state shall be immunized against measles, smallpox, tetanus, diptheria, poliomyelitis, and pertussis. All students participating on district athletic teams shall be examined annually by the school physician previous to participation.

LUNCH PROGRAM

Type A hot lunches are available in all elementary schools. They are prepared at Novak-King and A. J. Kctzenmaier Schools, and then delivered to South, Yeager, Forrestal, Green Bay, North, and Central elementary schools. The Neal Junior High school students are served in the Neal cafeteria. All students attending the district's nine schools now have the option of participating in the hot lunch program — thanks to the efforts and cooperation of the total staff. Weekly menus are published and circulated within the schools. Further information may be obtained by calling the individual school or the Education Center.

CITIZEN INVOLVEMENT

Citizen involvement is at an all time high in District 64 due mostly to the increase in interest by the parents. Concerned citizens and school officials meet regularly to evaluate and suggest improvements in the overall operation of the district. The Citizens Advisory Committee on Equal Educational Opportunity is an active group vitally interested in maintaining quality integrated education.

The school-community liaison program is made up of citizens from the community, one assigned to each school building. Their responsibility is that of a daily communicator between the school and the school-community. The liaison aides have enlisted the aid of parent volunteers who further enhance the services offered to the students. The familiar P.T.O. organizations are active in all buildings promoting programs for student benefit. Parent resource volunteers and groups also contribute to the education of the students by coming into the class to share their specific knowledge and experiences. Thus, parents, administrators, teachers, students all play a vital role in the process of education in School District 64.

TRANSPORTATION

Over forty percent of the students attending schools in District 64 are transported by bus daily, providing they reside over one mile from the school to which they are assigned. These buses are also used for excursions such as field trips and social and athletic events. Bus safety programs are conducted in each school to ensure the student is thoroughly acquainted with the district rules and regulations and proper passenger etiquette. As schedules vary from school to school, specific information may be obtained by calling a school official.

SOURCE OF REVENUE

TAXES	22%
BASIC STATE AID	44%
IMPACT AID	23%
OTHER STATE/FEDERAL AID	4%
MISCELLANEOUS	7%
	100%

DISTRIBUTION

CERTIFIED SALARIES	55.1%
NON-CERTIFIED SALARIES	13.5%
INSTRUCTION/SPECIAL EDUC.	10.2%
OPERATION	21.2%
	100%

CERTIFIED SALARIES	55.1%
NON-CERTIFIED SALARIES	13.5%
SPECIAL EDUCATION	7.2%
TRANSPORTATION	4.4%
INSURANCE/RETIREMENT	4.1%
BOND PAYMENTS	3.7%
UTILITIES	3.7%
FOOD SERVICE	3.6%
INSTRUCTION	3.0%
MAINTENANCE	1.1%
MISCELLANEOUS	.6%
	100%

SCHOOL CALENDAR 1976-77

Monday	August 30	Teachers' Workshop
Tuesday	August 31	Teachers' Workshop
Wednesday	September 1	Registration
Thursday	September 2	First Full Day of Classes
Monday	September 6	Labor Day
Monday	October 11	Columbus Day
Thursday	October 21	Parent Conference Day Noon Dismissal. No lunch.
Monday	October 25	Teachers' Workshop
Thursday	November 11	Veterans' Day
Tuesday	November 16	Parent Conference Day Noon Dismissal. No lunch.
Thursday	November 25	Thanksgiving Vacation
Monday	November 29	Thanksgiving Vacation Ends Schools Reopen
Saturday	December 18	Winter Vacation Begins
Monday	January 3	Schools Reopen
Wednesday	January 19	Parent Conference Day Noon Dismissal. No lunch.
Monday	February 21	Interdistrict Workshop
Tuesday	March 22	Parent Conference Day Noon Dismissal. No lunch.
Friday	April 8	Spring Vacation Begins
Monday	April 18	Schools Reopen
Wednesday	May 4	Teachers' Workshop Noon Dismissal. No lunch.
Monday	May 30	Memorial Day
Tuesday	June 14	Last Day of School

Chairman **Perkins**. Congressman Madigan.

STATEMENT OF HON. EDWARD R. MADIGAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, ACCOMPANIED BY MS. JUNE K. QUINT, BUSINESS MANAGER AND LEGISLATIVE COORDINATOR, RANTOUL CITY SCHOOLS, DISTRICT 137, RANTOUL, ILL.

Chairman **Perkins**. Mr. Madigan, we are glad to have you with us this morning. Introduce the lady with you.

Mr. **Madigan**. Mr. Chairman and Members of the Committee, I wish to thank you for the privilege of appearing before this hearing on behalf of Impact Aid. I have with me June Quint, Business Manager and Legislative Coordinator of the Rantoul City Schools, District 137, Rantoul, Illinois, who has prepared a statemnet on what effect the Impact Aid Law, P.L. 874, has on her district, as well as the nearly 200 other Impact Aid Districts in Illinois. I would like her statement included in the record, Mr. Chairman.

Chairman **Perkins**. Without objection, Ms. Quint's prepared statement will be inserted in the record in total and you make any observations you wish to make.

[The prepared statement of Ms. Quint follows:]

IMPACT AID STATEMENT

BY

JUNE K. QUINT

Business Manager and Legislative Coordinator, Rantoul City Schools, District 137, 400 East Wabash Avenue, Rantoul, Illinois, (217) 893-4171, before the

Elementary, Secondary and Vocational Education Subcommittee

of the

House Education and Labor Committee

Thursday, June 30, 1977

Mr. Chairman, and Distinguished Members of the Committee:

I am June K. Quint, Business Manager and Legislative Coordinator for the Rantoul City Schools representing the Superintendent, and the Board of Education of School District 137. We sincerely appreciate the opportunity to express our views on the status of PL 874, Impact Aid. In my capacity, in our school district, I serve as the state coordinator for approximately 200 Impact Aid school districts in Illinois working closely with the Illinois Office of Education in disseminating information on the law. My work with PL 874 dates back to the beginning of the original law -- back to the days of the Lanham Act. The opinions on various aspects of the law are set forth in Sections to more clearly define the affect on Illinois Schools.

SECTION I - Problems In The Administration Of The Program

SECTION II - Justification Of 3b Section Of The Law

SECTION III - Low Rent Housing

SECTION IV - Out-Of-County and Out-Of-State Provisions

SECTION V - Super A's

SECTION VI - Local Contribution Rate

SECTION VII - Summary

ATTACHMENT - Illinois Impact Aid By Congressional Districts

SECTION I

PROBLEMS IN THE ADMINISTRATION OF THE PROGRAM

For the last few years of the law's 25-year existence the Executive Branch and the Congress have disagreed over the School Assistance for Federally Affected Areas Program (SAFA) commonly called Impact Aid or PL 874. The battle continues in 1977 and is expected to continue into 1978 under the Carter Administration.

Until the Impact Aid program was overhauled under Title III of the Education Amendments of 1974 (P.L. 93-380) it was the most uncomplicated program to administer. Funds were awarded to LEA's based on a mathematical formula of the local contribution rate and the average daily attendance of eligible children. There were two categories, the "A" pupil whose parents lived and worked on federal property and the "B" pupil whose parents lived on privately owned property and worked on federal property. The reform of the Impact Aid Program in 1974 created a complex federal aid program by adding to the mathematical formula the entitlement percent by each of the expanded categories and the appropriate funding percentage within a three-tiered funding structure as follows:

Categories of Children Eligible Under Section 3

Category	Residence Requirement	Employment Requirement
3(a)(1)	Federal Property	Parent employed on federal property situated in whole or part in the same state in which the school district is located.
3(a)(2)	Federal Property	Active duty in uniformed services.
3(a)(2)	Indian Lands	None
3(b)(1)	Federal Property	None
3(b)(2)(A)	None	Parent employed on federal property situated in whole or in part in the same county in which the school district is located.

Category	Residence Requirement	Employment Requirement
3(b)(2)(B)	None	Parent employed on federal property situated in whole or in part in the same state but not in the same county in which the school district is located.
3(b)(3)	None	Active duty in uniformed services.

Additional Eligibility Under Sections 2 and 4

Section 2 - eligible if district's tax base has been reduced by acquisition of property by the United States Government constituting 10 percent or more of the total assessed valuation.

Section 4 - eligible when activities of the United States increase district's 3a or 3b category children such that total average daily attendance increases by at least five percent and the average daily attendance of federally-connected students increases five percent from the preceding year.

Entitlement and Funding Levels Under Sections 2, 3 & 4

Section	Entitlement (Percent)	Section 5(c) (1st Tier)	Funding Level (2nd Tier)	Percent (3rd Tier)
2	100	25	35	40
3(a)(1) & (2) - Super "A" (25% or more)	100	25	75	0
3(a)(1) - Less than 25%	90	25	63	12
3(a)(1)(LRH)	90	25	0	75
3(a)(2)	100	25	65	10
3(a)(2)(LRH)	100	25	0	75
3(a)(2) Military (handicapped)	150	25	75	0
if total 3(a) less than 25%	150	25	65	10
3(b)(1) Military "B"	45	25	32	43
3(b)(1)(LRH)	45	25	0	75

3(b)(2)(A) Civilian-in County	45	25	32	43
3(b)(2)(LRH)	45	25	0	75
3(b)(2)(B)(Out of County)	40	25	28	47
3(b)(2)(B)(LRH)	40	25	0	75
3(b)(3) Uniformed Services	50	25	35	40
3(b) 3 Military (handicapped)	75	25	35	40
3(d)(2)(B)	100	25	75	0
3(e)	100	25	32	43
4	100	0	0	100

The "savings" or "hold harmless" provisions in the formula are aimed at lessening the financial impact for adversely affected districts. The first provision guarantees at least 80 percent of a school's previous year's payment for "A" and "B" children in each fiscal year. Within school districts where payments represent 10 percent of the FY 73 budget, 90 percent of the previous year's total would be guaranteed. The second provision guarantees districts 90 percent of the previous year's "B" payment where the percentage of "B" out-of-county and "B" out-of-state children accounts for more than 10 percent of the total number of category "B" children. The third provision ensures that no district will suffer as a result of the new funding status accorded public housing children. Computations are first made as though no funds would be allocated for these children, than calculated with these payments included. When a district is entitled to more money without public housing funding, the U.S. Office of Education will pay the difference. The final provision protects school districts against sudden and dramatic loss of funds due to decrease of federal activity, allowing for a four-year phase-out of payments. When the reduction of federal activity in a school district reduces the Impact Aid children by at least 10 percent in any fiscal year, the district would be guaranteed at least 90 percent of the previous year's payment.

Coupled with the complicated formula designed to reimburse LEA's for the education of dependents of federal employees is the delayed payment schedule from the Office of Education. The pre-final payment for the 1975-76 school year was scheduled to be received by the local districts by March 30, 1977. They anticipate processing 1977 applications so that the districts will receive a 70 percent payment by July 1, 1977. Can schools continue to offer an adequate educational program under this type of funding? Obviously, the answer is no. Schools in Illinois are not allowed to operate under deficit financing and with the lack of payments during the present year, many districts had to either borrow money or resort to delayed payments of outstanding obligations to close their books for the 1976-77 fiscal year.

Cash flow is an on-going problem in Impact Aid school districts since the funds do not flow on a monthly basis as does school revenue in other districts. The Rantoul City Schools, District 137, must rely on nearly one-third of its revenue coming from the Federal Government under PL 874. Revenue from local taxes and State Aid are insufficient to meet the normal operating costs. Numerous times an emergency preliminary payment had to be secured from the Office of Education so the school district could meet the December payroll.

SECTION II

JUSTIFICATION OF THE 3B SECTION OF THE LAW

The Rantoul City Schools District 137 is classified as a "heavily-impacted" district as are Mascoutah and North Chicago, Illinois. This classification specifies a 100 percent payment through Tier II for the "A" students because they represent more than 25% of the total enrollment. This is our entitlement under the law, but the reduced payments and lack of funding for the "B" students will create a deficit situation by the end of the present school year unless steps are taken to postpone purchases, curtail summer maintenance, and place some employees on extended vacations.

The concept of the Impact Aid program, PL 874, is very simple in that the Federal Government pays the local school districts an amount equal to the loss in local property taxes. Districts obtain these taxes from two major sources, (1) the residence, and, (2) the place of employment. Traditionally, the local tax revenues in an average school district are divided approximately equally between taxes on the residences and taxes on the place of employment. Therefore, for the students classified as "A" pupils whose parents live and work on federal property, no taxes are derived for their education. Under the Impact Aid formula the Federal Government, and by law, the entitlement for reimbursement for the "B" pupil is equal to one-half that of the "A" pupil since one-half of the tax base, that on the place of employment, is lost.

In our district and in most districts serving military installations the "B" category is further divided into two types of pupils, those whose parents are in the uniformed services and those whose parents are civilian employees. Our district has four classes of pupils apportioned as follows for the 1976-77 school year:

	Enrollment	Percent of Enrollment
Federally connected:		
"A" pupils (military)	1483	49%
"B" pupils (military)	306	10%
"B" pupils (civilian)	322	11%
Non-federally connected	889	30%
TOTAL	3000	100%

It is apparent that the normal tax base is reduced by the absence of any tax base for the 49% representing the "A" pupils and that one-half of the tax base is lost for the 21%, making up the "B" pupils, a total loss of 60%.

The Administration's proposal to eliminate the funding for the "B" students is unsound. As shown previously, the tax structure is different for impacted districts because there is no tax on the place of employment for "B" pupils, thus one-half of the normal tax base is non-existent. Does President Carter want to place an additional tax burden on local property owners to pay for the government's share of the education of dependents of Federal Employees?

In addition, "B" military families do not pay taxes like everyone else. The Soldiers and Sailors Relief Act allows them to maintain their legal residences in other states so that state income taxes are paid in their home state not where their children are attending school. Most purchases made by the military personnel are made at the base exchanges and commissaries which are totally exempt from Illinois sales tax. These facts should refute the argument by the administration that the value of having a federal installation present with its large payroll outweighs any need for reimbursement for "B" pupils. In the Impact Aid Reform Act of 1974 the entitlement formula for non-military dependents was reduced by 5% to compensate for the amount received by the school district from non-property sources so that, now, the improvement of the local economy argument is no longer valid. If the 3b classification was phased out, as some have proposed, the education tax rate for the Rantoul City Schools, District 137, would have to be increased by 52 mills which represents a 56% increase, or $100 more in property taxes on every $20,000 home.

SECTION III

LOW RENT HOUSING

Impact Aid provides money to school districts to help offset tax losses which occur because of tax-exempt federal property within school districts. This includes low rent housing projects. Section 5(e) of PL 874 "authorizes the payment of federal funds to local educational agencies on the basis of numbers of children in the schools of such agencies who reside in low rent housing" -- "the amount of the payment to any local educational agency which is determined with respect to such agency under paragraph 1 shall be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low income families."

Funds provided by the Federal Government through the Impact Aid program throughout the past 25 years have met with great approval on the part of most members of Congress and educators alike because of the very few restrictions on the use of the money. It is treated as it was originally intended - a tax replacement payment to the LEA. Tax monies, including Impact Aid funds, in all school districts are used to pay for salaries, utilities, school supplies, or, as it is generally known, to pay for the maintenance and operation of the school.

There seems to be a contradiction between the original intent of the law and the stipulations included in the Impact Aid Reform of 1974. It does not necessarily follow that a student residing in low rent housing would be educationally deprived because he is from a "low-income" family. Designating the funds to be used for Title I type projects is another way of circumventing the payment to the local districts due to the lack of approval of the project by the State Administrators of Title I programs. Why should one particular section of Impact Aid funds be different from the other? Impact Aid results from property tax problems not the ability of the students involved. Again, in the concept of Impact Aid, very little property tax is derived from Federal Low Rent Housing thus creating a tax impact on the local district. By definition, it is another federal property, classified much the same as a military installation. Any amendments to the Impact Aid program should include the provision to consider funds received for students residing in Low Rent Housing as maintenance and operation funds to be used for general operating costs.

In downstate Illinois, school districts with Federal Low Rent Housing within their boundaries, are receiving between $20 to $40 per child as an in-lieu-of-tax payment. Lack of funding is only one of their great concerns --another is the large number of students concentrated in a small segment of an attendance area which necessarily causes an "impact" on the number of students assigned to the one building.

Realizing that not all students from a Low Rent Housing project are "educationally deprived" and also, considering the concentration of funds channeled toward the education of the handicapped and the gifted, the "average" student is being deprived of his share of the necessary support for his education. A per capita allotment equal to one half of the local contribution rate for the district would provide adequate funds for all students from the Low Rent Housing not just a few.

SECTION IV

OUT-OF-COUNTY AND OUT-OF-STATE PROVISIONS

In Section I of this testimony we listed the categories of students under the Impact Aid Reform Measure as well as the Entitlement and Funding Levels. Keeping in mind, the 3(a) classifications are military and the 3(b) classifications are military and civilian employees working on Federal property, attention should be called to the disparity between the entitlement for civilian employees residing in the county and those residing out of the county. Question - why should a school district be subjected to a 5% penalty for the children of Federal employees, who, in all probability could not find housing in the area around the federal property? This represents a loss per student of approximately $50 and for every 200 civilian "B" students in a school district the loss represents the salary of one teacher.

A recent report by the General Accounting Office indicated that about half of the school districts receiving Federal Impact Aid would need less than a 5% tax increase to maintain their funding if Impact Aid funds were withdrawn. It is apparent that GAO has not made a study of the number of tax referenda defeated throughout the nation in the last two or three years. Careful consideration should be given by Congress that even though the local school district would have to raise local taxes by what GAO considers a small percent, whatever the percent is, is equally as important to the local taxpayer as it is the federal taxpayer (Federal Government), who in this instance has the responsibility.

Another aspect of the out-of-county and out-of-state disparity is the cause and effect on the educational program in the school district outside the boundries set by the law. It is, in effect, decreasing the quality of the educational program in the district where the dependents of Federal employees are residing - sometimes forced to reside in that area because housing is not available within the district where the Federal Property is located. Due to the lack of funds a minimum educational program is all that could be offered to the children of these Federal employees. As an example, 10 miles north of Rantoul is Paxton, Illinois located in Ford County. Many military families are living in that district because they could not find housing in Rantoul nor on Chanute Air Force Base. The residents of that community tried repeatedly to pass a tax referendum and when they all failed the Board of Education was forced to cut programs. Starting with the football program and all other athletics they then eliminated music and other fine arts, field trips and combined programs bringing their curriculum to bare bones. Any further cuts in the 3b section will adversely affect the education of military dependents attending school in Paxton.

The financial burden on the local taxpayer to educate the child whose parent works on federal property within a commuting distance, in another county or in another state, is the same as the burden to educate the child whose parent works on federal property within the school district or the child whose parent is on active duty in the uniformed services. The "B" out-of-county and out-of-state concept should be changed to eliminate the imaginary line which creates a discrimination of payments to the school district.

SECTION V

SUPER A's

Within the boundaries of School District 137 is Chanute Air Force Base, one of the largest technical training centers in the U.S. Air Force. 49% of the students enrolled in the Rantoul City Schools reside on the Air Force Base and 21% of those enrolled live in the village and have parents employed on the base. The 70% Federally-connected student enrollment reveals the necessity for the continuation of Federal Assistance such as PL 874. In 1967-68 the Federally-connected student population reached 84.62% of the total enrollment. The present percentage of 70% results from the continual declining enrollment as well as an increase in local non Federal students. However, even during the decreasing enrollment the percentage of 3a students remains constant at nearly 50%.

The assessed valuation per child in the Rantoul City Schools is approximately $14,000, which, in the ranking of the districts in Illinois places us about 21st from the lowest of 454 of our type of district. Those of us who must assume the responsibility for providing good quality education realize it cannot be provided with such low-level support. It is unfair to deny a child the same educational opportunities enjoyed by children in non-impact districts throughout the State merely because their parents happen to be employed by the Federal Government. It is also unfair to provide a better quality education for 3a students than is provided 3b students. Funding for the 3a students since the law began in 1950 has helped immeasurably in the type of educational program offered in the Rantoul City Schools. Many parents have told us, after being transferred to another location they requested to be returned to Chanute because of the school system in Rantoul. We are proud of our school - but, credit is given to the Congress for their insight back in 1950 to work together with the LEA and strive to supply the funds for the best education for our young people.

If the opponents of Impact Aid are successful in phasing out the 3b section of the law, how long would the Congress continue their support of the 3a classification? If the support by the Federal Government for half of our student population was taken away there would be no recourse but to close. Lack of sufficient tax base and inadequate funding of the State Aid formula would prevent even a replacement of the funding for the 3b, much less the 3a category. It has been, and is a good law - withstanding the tests of time - it is fair - it is direct - no funds are lost in administering the program since it is directly between the Office of Education and the LEA. As a "charter school" in Impact Aid we want to express our appreciation for the funds received under PL 874 and urge continuation of the law as it was originally designed.

SECTION VI

LOCAL CONTRIBUTION RATE

According to the GAO report there was some disparity in establishing rates by which districts were paid. We realize the difficulty of developing a program of Federal Assistance to the districts of the Nation that would be equitable due to the great diversity of methods of financing schools in the different States of the Union.

Rates of payment have been determined by three methods - comparable districts, one-half the state per capita or one-half the National per capita. These options have permitted Impact Aid districts to select the method of requesting the rate of payment commensurate to their obligations, viz., an Impact Aid district finds they have a higher per capita cost due to high mobility factors. To accept a rate of payment equal to a neighboring small school district's local contribution would find the Impact Aid district attempting to provide a quality education program with less funds than his counterpart in the next city. The Rantoul City Schools has used two methods during the past 27 years - comparable districts and one-half the State per capita. The rates were not excessive but were sufficient to offer an educational program of the type to give the extra help to the students when needed.

SECTION VII

SUMMARY

1. We sincerely urge the Congress to implement within the Authorizing Legislation definite procedures to return the administration of the Impact Aid to the less complicated formula as it was prior to the 1974 Impact Aid Reform. Eliminate the unnecessary paperwork which presently plagues most Federal Programs.

2. Provide authorizing legislation and appropriate the necessary funds to fully fund the amount due school districts for the "B" students. Eliminate the variance between military and civilian dependents.

3. Acknowledge Low-Rent Housing as any other Federal Installation such as a military base, post office, arsenal, etc. Eliminate the stigma that those residing in Federal Low-Rent Housing are Title I eligibles - classified as educationally deprived. Those who meet the qualifications under Title I will possibly also be eligible under the handicapped classification under PL 94-142. This would result in multiple funding for these students.

4. Eliminate the imaginary line between counties and between states. Let the money follow the student. All school districts, regardless of location, are finding it difficult to obtain necessary funds to provide a quality educational program and the boundary regulations only makes their problem more complex. The 3b student, living outside the county or outside the state, is entitled to the same quality education as the 3a.

5. Continue the funding of the 3a students under permanent authorizing legislation. This method of providing "tax replacement" to the LEA is a means of providing the type of education these dependents are seeking and deserve.

6. Retain the present method of establishing rates of payment. It provides the most equitable means since you are considering your own or equal cost factors within a particular locale. Costs vary considerably by region - costs of education in southern states are less than in the northern states but are still offering a good educational program. Some of this difference in costs are related to expenditures for fuel. Northern school districts would not be able to offer the same program if standard rates were established lower than their own Local Contribution Rate.

In conclusion, your attention is called to the Attachment listing the appropriations for 1976 and for 1977 as well as the amount of entitlement for 1977. This clearly reveals the amount of PL 874 money paid to Impact Aid School districts in Illinois. Please note that the elimination of the 3b students would mean a loss in Illinois of more than $10,000,000. The Honorable Congressman from Illinois, serving on this Committee, is probably more aware than I of the financial plight of our State. Illinois is making a valiant effort to provide the necessary funds for the cost of education. However, they must decide what priority to give education in the total budget package since some are urging they take funds from another section of the budget to satisfy the needs for funds to pay education costs. In view of this, where would the State of Illinois secure another 10 million dollars to make up the loss to Impact Aid districts if the 3b students are not funded by the Federal Government?

I would like to express my appreciation, as well as that of the Superintendent, the Board of Education of the Rantoul City Schools and the other 200 plus Impact Aid districts in Illinois, for the opportunity to explain some of the financial problems. We are earnestly seeking your help to secure revenue for the education of the children brought into our communities by a federal activity. We urge the Congress to continue the authorizing legislation under PL 874 as well as adequate appropriations for all sections of the law.

ATTACHMENT

Compilation of Entitlements

Congressional District No.	1976 Appropriation Sec 3(a)	1976 Appropriation Sec 3(b)	1977 Appropriation Sec 3(a)	1977 Appropriation Sec 3(b)	1977 Entitlement Sec 3(a)	1977 Entitlement Sec 3(b)
1-10 Chicago area	$ 275,967	$ 6,260,495	$ 308,740	$ 6,068,242	$ 345,893	$22,605,098
12	655,832	44,125	739,663	47,735	763,464	83,073
13	1,602,804	673,422	1,810,208	723,010	1,826,223	1,352,685
14	---	182,194	---	196,550	---	351,521
15	533	205,781	511	216,517	2,044	452,649
16	---	28,668	---	30,677	---	59,200
17	37,611	259,767	42,191	264,299	47,438	586,612
18	---	147,036	---	143,567	---	519,845
19	63,106	498,070	70,769	531,481	79,917	1,051,168
20	1,376	57,696	1,318	57,803	5,272	180,780
21	1,142,820	418,024	1,289,477	449,072	1,321,299	836,100
22	3,176	123,619	3,561	128,795	4,047	310,494
23	1,474,123	602,327	1,664,449	840,957	1,686,285	1,934,038
24	37,040	386,894	40,839	403,262	57,922	968,014
TOTALS	5,294,397	10,088,121	5,971,732	10,101,997	6,139,811	31,291,288

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Mr. MADIGAN. Prior to coming to Congress I served in Illinois on the Elementary and Secondary Education Board and on the Illinois School Problems Commission.

Mr. Chairman, I think that Illinois is a very progressive State. We have a State sales tax and a State income tax at rates higher than neighboring States. Major portions of those two taxes are passed back directly to elementary and secondary school systems.

Agriculture groups within our State protest that local tax assessments and levies are higher in Illinois than in other Midwestern States.

There are 12 million people in our State, and every budget, at every level of government, is straining to meet the demands already placed upon them.

It would be disastrous if 200 school districts within that State were to lose the impact funding that they presently receive from the Federal Government.

June Quint's insert for the record provides a very thoughtful analysis of the situation within the State of Illinois.

On behalf of our Governor and Legislators and myself, and the other members of the Illinois Congressional Delegation who represent Federally impacted school districts, I would very much appreciate your review of her thoughtful work.

Thank you, Mr. Chairman.

Chairman PERKINS. You may proceed if you wish to make a brief statement.

STATEMENT OF JUNE K. QUINT, BUSINESS MANAGER AND LEGISLATIVE COORDINATOR, RANTOUL CITY SCHOOLS, DISTRICT 137, RANTOUL, ILLINOIS

Ms. QUINT. Thank you, Mr. Congressman.

I also am working on behalf of the 200 impacted aid districts in Illinois and would like to make a comment on the out-of-county and out-of-State provisions for Illinois. If I could have a State of Illinois pinpointing the impact aid districts, you would find those districts are on the perimeter of the State and many of the school districts are suffering because of the out-of-State provision. The Rantoul City Schools are impacted by approximately 72 percent. The 3(a)'s are 50 percent of our enrollment. If we were not funded under the 3(b) provision our tax rate would have to go up by 56 percent. Ironically, the amount of the loss in our district for the 3(b) is the same amount as the tax revenue we receive on local property taxes.

Chairman PERKINS. Do you have the resources to provide the additional revenue you are talking about or would it be unduly placing a burden on the people in that school district to tax them to the extent necessary to replace the B Category money?

Ms. QUINT. No, sir. We don't have that capability, Chanute Air Force Base encompasses so much of our taxable wealth as to property in our district that we would not have sufficient tax base even if we were allowed to go before the property taxpayers to ask for a tax increase. We don't have that kind of taxable wealth.

Chairman PERKINS. What do you think would happen if we did away with Category B in your area as far as quality education is concerned?

Ms. QUINT. Our board of education and the superintendent and I have discussed this many times. We are already at bare bones in our budget. We can't cut many more staff without increasing the class load to the point where it would be a very inadequate education for the young people. As far as an alternative, I have none other than probably closing the doors.

Chairman PERKINS. Thank you very much, Congressman Madigan. We appreciate your coming here this morning.

Glad to see you here.

STATEMENT OF DR. WILLIAM W. CHASE, CHIEF, SCHOOL CONSTRUCTION BRANCH, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, U.S. OFFICE OF EDUCATION; ACCOMPANIED BY WILLIAM STORMER, DIRECTOR, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, U.S. OFFICE OF EDUCATION; GRANT PINNEY, ASSISTANT SUPERINTENDENT: SIERRA SANDS UNIFIED SCHOOL DISTRICT,

RIDGECREST, CALIFORNIA; AND LUTHER HARTMAN, SUPERINTENDENT OF SCHOOLS, FORT SAM HOUSTON INDEPENDENT SCHOOL DISTRICT, SAN ANTONIO, TEXAS.

Chairman PERKINS. Come around, Dr. Chase, Chief, School Construction Branch, Division of School Assistance in Federally Affected Areas, U.S. Office of Education; Mr. Stormer, Director, Division of School Assistance in Federally Affected Areas, U.S. Office of Education, Mr. Pinney, Assistant Superintendent, Sierra Sands Unified School District, Ridgecrest, California; and Mr. Hartman, Superintendent of Schools, Fort Sam Houston Independent School District, San Antonio, Texas.

Mr. Stormer, last week you testified that the implementation of the pinpoint disaster program and the funding of both eligible major and pinpoint disaster applications was imminent. What is the status of these items today?

Go ahead, Mr. Stormer.

STATEMENT OF WILLIAM STORMER, DIRECTOR, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, U.S. OFFICE OF EDUCATION

Mr. STORMER. Mr. Perkins, with respect to pinpoint disaster assistance, an announcement that the Office of Education will accept applications dating back to January 2, 1968, the date of the enactment of the authorizing legislation, has been drafted. It is expected to appear in the Federal Register on or about August 1. This notice will provide for the receipt of applications for a period of 90 days following publication. Seventeen pinpoint disasters, for which all the necessary work has been completed, will be declared within a week. These pinpoint applications along with eligible major disaster applications have been ranked in priority order from highest to the lowest in accordance with criteria specified in regulations. Steps will have been taken within the next 30 days to provide for more expeditious on-site reviews of disaster assistance claims.

Funds amounting to $34.6 million have been identified from Office of Education appropriations for disaster aid. The specific program authorizations recommended to meet this request have been identified. We now understand that reprogramming will be required. Assuming approval of this by the Appropriations Committees these monies will be used to fund all currently known eligible and processed applications and will be used for applications anticipated to be processed prior to September 30. Each applicant, currently on the priority list, will receive a payment representing 75 percent of the estimated cost of repairing, restoring, or replacing disaster caused damages within a month. Currently available for use is $1.7 million of P.L. 874 funds which will be released immediately to projects in priority order. Other projects will be funded as rapidly as funds become available.

The Office of Education will submit monthly reports to the Congress in accordance with statutory requirements.

Chairman PERKINS. When are you submitting your request for reprogramming authority to the Appropriations Committee and will first payments be made?

Mr. **Stormer**. I understand the request is currently being prepared and hopefully we, shortly, should get that approval.

Chairman **Perkins**.. Thank you, Mr. Stormer.

We will hear from Dr. Chase.

Mr. **Stormer**. If I may preface Dr. Chase's comments?

Chairman **Perkins**. You are making his statement?

Mr. **Stormer**. No. I would like to say Dr. Chase came to this division the first of this month. We are very happy he has assumed the position. Accompanying him will be Dr. James Woofter, who has acted in this capacity since 1974 until his retirement in February. Dr. Woofter has served the program with distinction for 20 years and continues on a temporary basis to finish up certain jobs. He will answer certain questions.

Chairman **Perkins**. Without objection, Dr. Chase, your prepared statement will be inserted in the record, and you may proceed.

STATEMENT OF DR. WILLIAM W. CHASE, CHIEF, SCHOOL CONSTRUCTION BRANCH, DIVISION OF SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS, U.S. OFFICE OF EDUCATION

Dr. **Chase**. Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you to discuss the provisions and current status of our school construction activities authorized by Public Law 81-815, as amended by P.L. 93-380. As you know, P.L. 81-815 is designed to provide local educational agencies with financial aid urgently needed for the construction of minimum school facilities. The conditions under which appropriated funds may be made available concern districts which have substantial increases in school membership as a result of new or increased Federal activities. The ability of school districts to levy a non-Federal share of construction costs is an additional factor for consideration. We are authorized to assist in providing temporary school facilities where a Federal impact is expected to be temporary. Finally, the program provides assistance in constructing school facilities on government installations where no State or local tax monies may be used for school construction needed there.

It may be helpful to relate the specifics of the general provisions which I have just outlined to the sections of the statute. There are six basic sections of P.L. 81-815. They are Sections 5, 8, 9, 10, 14 and 16.

Section 5 provides Federal school construction assistance to local education agencies which educate children residing on Federal property, or residing with a parent employed on Federal property. Much of the assistance rendered under this Section is attributable to the impact of military installations.

Section 8 provides additional assistance to applicants eligible under Section 5. Additional assistance is sometimes needed to enable a local education agency to complete a school construction project which could otherwise not be completed due to lack of funds, the occurrence of a catastrophe, or for other equally cogent reasons.

Section 9 provides school construction assistance to local education agencies where the impact is temporary; that is, greater than one year but less than six years' duration. The applicant may use the funds either for providing temporary school facilities or for constructing permanent facilities whichever he chooses to the extent the funds will permit.

Section 10 funds are used to provide school facilities for children residing on Federal property in those situations where no local or State tax funds may be expended to provide free public education for children residing on Federal property, or where no local education agency is able to provide suitable free public education for children residing on such property. Most school facilities constructed under Section 10 are located on military installations.

Section 16 provides school construction assistance to local education agencies whose schools have been destroyed or seriously damaged as the result of a major disaster as declared by the Commissioner of Educatoin.

The Education Amendments of 1974 made three major changes in the provisions of P.L. 81-815:

Section 5(a)(1) was amended to define all children residing on Federal property as A category children—including those residing on Indian lands and in low-rent public housing. For funding purposes, however, low-rent housing pupils are counted separately as they were previously. This means that all eligible applications which are based on the inclusion of other than low-rent housing pupils must be funded in full before any funding can be considered on the basis of low-rent housing pupil eligibility.

Chairman PERKINS. I am going to interrupt you for just a minute here for a picture.

[Brief recess.]

Mr. CHASE. Section 5(a)(2) was amended to include only those children who are: (1) residing off Federal property with a parent employed on Federal property located in the same State as that in which an applicant school district is located, or within reasonable communiting distance if the Federal property is located within another State; or (2) who had a parent in the Uniformed Services.

Section 16 (disaster assistance) was amended to expand the definition of the words "restoration or replacement" of facilities destroyed or seriously damaged by a major disaster to include the "cost incident...to afford appropriate protection against personal injuries resulting from a disaster." (Disaster aid is discussed further in a separate statement.)

These amendments simplify the determination of "A" and "B" category pupils under P.L. 815. However, for the first time since the two impact aid laws were originally approved in 1950, the determination of Federally connected children under P.L. 815 differs from that applicable to P.L. 874.

P.L. 815 now classifies children residing on Federal property, including Indian lands and low-rent housing property, as "A" category children. Thus, the potential entitlement for eligible applicant local education agencies which educate "A" category children residing on Indian lands will be increased under Section 5 processing actions. Likewise, the potential entitlement for local education agencies educating children residing on low-rent housing property would be appreciably increased at such time as funding might be permitted on the basis of low-rent housing children.

Comparison between the numbers of children claimed by a school district under P.L. 815 and P.L. 874 in a given fiscal year is no longer an easy task to perform.

Computations of Entitlements:

The basic law provides that a maximum allowance may be computed for applications eligible under Section 5 on the basis of the number of Federally connected children eligible for payment, times the approved State per pupil cost of constructing minimum school facilities in the second year preceding the end of the increase period covered by the application, times 95 percent for children eligible and counted under Section 5(a)(1) and 50 percent for children eligible and counted under Section 5(a)(2).

Each year data from which to compute a per pupil cost of constructing minimum school facilities are obtained from the States. These data along with other construction indices are used to compute the per pupil cost for each State where local districts apply for aid. Cost estimates are submitted to the respective Chief State School Officers for concurrence.

Next, I would like to briefly discuss the funding priorities established by the statute. Section 2 provides that each fiscal year the Commissioner shall determine the portion of the funds appropriated which are necessary for carrying out the provisions of Section 9 and 10. The remainder of such appropriated funds shall be available for paying to local education agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under Section 5. In 1970 the Act was amended to provide that applications under Sections 14(a) and (b) (aid for children residing on Indian lands) would have funding status equal to those under Sections 9 and 10. The disaster provisions of Section 16 provide for the use of funds pending the additional appropriation each fiscal year of such amounts as may be necessary to carry out the provisions of that Section. It has been determined administratively that funds necessary for Section 16 would be taken off the top of the regular P.L. 815 appropriation.

Beginning in 1971, appropriation language altered priorities contained in the basic Act in order to redirect assistance to local school districts providing free public education for children residing on Federal properties—primarily military and Indian properties. Since then, appropriation language has directed the expenditure of funds in a specific manner. For example, P.L. 94-94 specified up to $5,000,000 be allocated for repairs for facilities constructed under Section 10. It also directed expenditures of the amounts necessary to meet the costs of providing increased school facilities in communities located near the Trident Support Site, Bangor, Washington, without regard to any provision of the law. None of the remainder was to be available to pay for any other section of the Act until full payments were made to cover the eligible costs under Section 5 and Sections 14(a) and 14(b).

Let me now move to a discussion of the methods we use in determining the funding priority for the applications received. In addition to the priorities established in accordance with the sections of the statute, each project application competes with others for assistance under a given section of the Act. The priority system of approval of projects is established under Section 3. An order of priority has been established by regulation and is followed in approving applications in the event that funds appropriated are insufficient to fund all eligible projects. The priority index is based on relative urgency of need.

The method of determining relative urgency of need is specified in the regulations. The relative urgency of need of eligible applications is based on two factors: (1) the percentage that the number of Federally connected children eligible for payment bears to the total membership; and (2) the percentage that the number of unhoused children in the school district (children without minimum school facilities) bears to the total membership. The priority index is determined by adding these two percentages, but in no case may the priority index be greater than twice the Federally connected percentage, and no priority index can be established if the percentage of unhoused children is zero. However, the regulations provide for the establishment of subpriority indices in the event that the basic priority is determined to be zero.

A priority list of eligible projects is arranged in descending order from the highest to the lowest priority rating. Funds are reserved starting with the project with the highest priority and continuing down the list as far as available funds will permit. Projects which are too far down on the list to be reached with available funds become eligible for consideration if and when additional funds are made available.

Beginning with FY 1967, appropriations for P.L. 815 have been insufficient to meet the demand for school construction assistance. As a result there is presently a backlog of eligible, unfunded applications under Sections 5, 10, and 14. This backlog has been estimated to total $845 million:

In Section 5 there is a backlog of $115 million; in Section 10, $230 million; and in Section 14, $500 million; a total of $845 million.

However, a portion of the above total may be subject to question. A number of the Section 5 applications previously determined eligible may no longer meet the test of need when reexamined in light of current Federal impact. Thus, they may fall from the priority listing and would be subtracted from the estimated need for funds. By the same token older applications remaining eligible would not provide minimum school facilities at today's market prices—considering the per pupil cost of construction we must use. A few of the applications for assistance under Section 14 may be removed from the backlog by virtue of funds made available under P.L. 93-638 (the Indian Self-Determination and Education Assistance Act).

With respect to requests for facilities under Section 10, former Commissioner Bell authorized an in-depth study of school facilities located on government installations, including a study of the need for new construction, plus the repairing or remodeling of existing facilities. That action followed a statement by former Secretary Weinberger that the study would give the Department a sound basis for any decisions relative to a policy change in the facilities program.

Section 10, as I indicated earlier, provides that the Commissioner of Education shall make arrangements for constructing or otherwise providing the minimum school facilities necessary for the education of children residing on Federal property when certain conditions exist. The Federal property involved is generally a military installation, although there are a few exceptions.

The Department of Defense contends that many existing Section 10 school facilities are inadequate and that this condition is impacting adversely on the morale of uniformed service members. With minor exceptions, the funding level for Section 10 has remained at approximately $1 million annually since Fiscal Year 1971.

An interim report prepared by the Division summarizes the results of on-site examinations of 139 school facilities previously constructed under Section 10. The schools are located on 56 different government installations in 22 States and the Commonwealth of Puerto Rico. The on-site examinations consisted of engineering, architectural examinations, and analysis of education program needs in relation to school facilities.

On the basis of actual cost estimates for 14 of the 81 projects, staff projections indicate that $230 million would be required to fund construction projects under Section 10 if the statutory preconditions were satisfied for all of the potential projects considered.

The report is necessarily only the first phase of the on-going study. As a next step, the Office of General Counsel has been requested to examine the legal basis for the funding of these construction projects. This analysis is expected to be completed by the end of August. In addition, we are considering the development of suitability criteria which may ultimately be used in evaluating certain potential Section 10 projects on a case-by-case basis.

Mr. Chairman this concludes my prepared statement. My colleagues and I will now be delighted to try to answer your questions.

Chairman PERKINS. Thank you very much for your prepared statement.

We will call on Mr. Grant Pinney, Assistant Superintendent of Sierra Sands Unified School District, Ridgecrest, California.

STATEMENT OF GRANT PINNEY, ASSISTANT SUPERINTENDENT, SIERRA SANDS UNIFIED SCHOOL DISTRICT, RIDGECREST, CALIFORNIA

Chairman PERKINS. Without objection your prepared statement will be made a part of the record and if you want to summarize it you may.

Mr. PINNEY. I just want to say before I begin, 13 years ago I also testified before your Subcommittee when you were Chairman. I have been in the China Lake area since that time.

Chairman PERKINS. I recall, it was either '64 or '65.

Mr. PINNEY. I certainly appreciate this opportunity to testify before this distinguished committee. For 23 years, I have been in the China Lake, California, area. I mention this because most of you will remember the China Lake School District who will not recognize the name of the new district.

In this School District of more than 2,500 square miles, the primary employer is the Naval Weapons Center, while the School

District employs the second greatest number of employees in the area.

The District is located in three counties and is separated from the County seat of Bakersfield by 120 miles and the Sierra Mountain Range. Since our primary employer is the Naval Weapons Center and since a huge Federal post office services the entire area, practically all of our assessed value is from residence.

This, of course, places the burden of building schools on a minority of property owners. The School District's taxable assessed value is primarily of the residence type. The total assessed value of our School District is $46 million, while the assessed value of the federally owned property is more than $500 million.

The past two tax elections have failed—the last one by a vote of 6 to 1. The reason for the failure is not because the people oppose building schools but because their tax rate is presently one of the highest in the State (more than $7 per $100 of assessed value.)

Seventy-eight percent of our children are P.L. 874 (Impact Aid children) yet the parents of the other 22 percent are expected to build the buildings. We have 5 approved applications on file in the Office of Education now waiting for money to be appropriated under P.L. 815. These applications are dated 1970, 1972, 1974 and 2 in 1975. We have a high priority number on the Section 5 list of P.L. 815 but each year only a token amount of money is appropriated for Section 5 schools. Last year only $8 million was allocated for Section 5 schools and $700,000 was set aside for major disasters under Section 16.

Our School District must vacate 36 classrooms by July 1, 1977, because the buildings are deemed to be earthquake unsafe and the School District has an earthquake fault running through it. We are now at a very desperate point as are many other Section 5 applicants throughout the nation. I would like to quote some statistics taken from the files of the Office of Education on April 8, 1977. The following number of Section 5 applications are on file awaiting funds:

In 1967, 40 applications; in 1968, 54 applications; in 1969, 93 appplications; in 1970, 63 applications, 1971, 39 applications; 1972, 32 applications; 1973, 32 applications; 1974, 4 applications; 1975, 10 applications; 1976, 2 applications; and in 1977, 3 applications. The total amount needed to fund just these listed Section 5 applications is $115,258,346.

Our problem has been, in the past, that very high priority projects come in each year and are funded ahead of those on the list or major disasters occur taking priority on all of the P.L. 815 money.

For this current year $25 million dollars was appropriated for the entire P.L. 815 program. It was distributed as follows:

$6 million for Section 10.

$8 million for Section 5.

$11 million for Section 14.

This leaves Section 16 the major disaster area with no funds. This year the Office of Education was forced to hold out $1.4 million from Sections 5 and 14 to provide help for major disasters such as Guam.

A few years back when the earthquake hit Los Angeles, it cost $11 million to rebuild the Los Angeles High School alone, while the Federal Government had only appropriated $10 million total that year for all sections of P.L. 815.

On April 4, 1977, the States of Kentucky, West Virginia and Virginia suffered major disasters and must be assisted in fiscal '78 through Section 16, the disaster section of P.L. 815.

The major disaster money under Section 16 comes off the top of the P.L. 815 appropriations and is for very necessary and deserving projects, but this year's recommended meager appropriation from the House Appropriation Committee of $30 million will again let the old applications for Sections 10, 14 and 5 stagnate.

We need a method of funding these disasters other than taking the money from regular 815 funds. If it is taken from 815 funds a method of replacement should be set up.

Nothing would spur the economy more than to proceed with all of the 815 construction. The benefits to humanity would be great and the long-term benefits would be unsurpassed. P.L. 815 must be renewed.

I understand that if all sections of P.L. 815 were added together more than $700 million would be needed to fund the backlog of projects.

I come to this Committee with these thoughts: Laws are made to educate all children; property tax is determined to be the source of funding; tax elections are going "down the drain"; P.L. 815 is not funded enough to make a dent in the backlog. How do we school people house the children? Would it be possible to write into the legislation a permanent $100 million per year until this backlog is cleaned up?

Another change needed is the 6 percent increase limitation in the 815 law. For example, if a school district of 8000 students has an increase of 400 elementary students, they do not qualify for funds because they do not need the 6 percent requirement, which would be 480 students. Yet they need another elementary school to house these students. Under 874 you are paid each year for each student. Under 815 you are paid only one time for construction, so my feeling is that payment should come as numbers of students increase. We need a method other than taking it from the 815 funds. If it is taken from the 815 funds there should be some method of reimbursement.

I would also like to enter this statement because of our problems under Hold Harmless provisions.

[The statement was read by Mr. Pinney.]

SIERRA SANDS UNIFIED SCHOOL DISTRICT
730 North Balsam Street
Ridgecrest, California 93555

(Formerly China Lake School District)

TESTIMONY FOR PRESENTATION TO THE HOUSE EDUCATION COMMITTEE ON JUNE 30, 1977 WITH REFERENCE TO HOLD HARMLESS "A" PROVISION OF THE PRESENT P.L. 874 LAW

I am Grant Pinney, Assistant Superintendent--Business, of the Sierra Sands Unified School District in California. I certainly appreciate this opportunity to testify before this distinguished group of people. For 23 years, I have been in the China Lake, California area. I mention this because most of you will remember the China Lake School District who will not recognize the name of the new district.

The Sierra Sands Unified School District has as it's primary employer the Naval Wepaons Center at China Lake and has a 78% impaction of "A" and "B" children under P.L. 874. As you can see P.L. 874 money is our lifeblood. Since we have no other industry, the taxable assessed value of the School District is primarily the homes in the area. The second largest employer is the School District itself, third is the Community Hospital and forth is a federally-owned Post Office serving the 2,500 square miles of the desert area. Little assessed value is available from these employers.

The reason I feel so strongly for Hold Harmless "A" of P.L. 874 is for selfish reasons. As you know the Hold Harmless "A" provides that a qualifying LEA will be guaranteed at least 90% of the preceding year's prorated entitlement beginning after June 30, 1974 and ending July 1, 1978. This 90% prorated entitlement is available only to LEA's whose budget is made up of at least 10% P.L. 874 money. If the LEA 874 income is less than 10% of the total expenditure, the LEA is entitled to 80% of the prorated entitlement of the preceding year until July 1, 1978.

Our School District is a prime example of how necessary this money is. We have lost money in the last four years in the following ways:

1. Less money appropriated
2. L.C.R. decreased in fiscal 1976
3. The China Lake Naval Weapons Center has forced a move of residents to off-base housing. As a result:
    - a. We lost "Super A" category status which caused a 21% loss of "A" funding.
    - b. The "A" students became "B" students and about 74% of the prorated entitlement was lost.

The way Section 3E is written, you cannot pick up the loss when an "A" student becomes a "B" student because you still have the same number of Impact Aid students. This, I believe, is a fallacy in the 3E Section of the law, but none the less, Hold Harmless "A" is our only salvation.

These "A" students have been moving off base at the rate of 300 per year for the past four years. You might say, "but the assessed value increases thereby increasing your local property tax income." NOT SO! In California, the school districts are held to a revenue limit that increases only at the whim of the State Legislature; consequently, an increase in residence assessed value will only tend to decrease the tax rate and not increase the revenue to the school district.

When the Naval Weapons Center decided to go out of the housing business, our School District was the financial victim of the action.

In fiscal year 1977, we had to decrease spending by $900,000 and to stay within the income this year, we must cut an additional $1,000,000 from the budget. At the same time we are cutting budgets, the inflation factor is building up against us.

My recommendation is to definitely renew the Hold Harmless "A" Section of the law and finally to alter Section 3E to provide for the situation of the "A" student becoming a "B" student by giving some financial assistance to those districts involved. A minor amount of money is required but to do both of these things a great service would be forthcoming to those few districts involved.

Mr. JENNINGS. The Chairman had to go over to vote on the Defense Appropriation Bill, but he has requested Mr. Hartman to begin his testimony and he will be right back.

Mr. Hartman.

STATEMENT OF LUTHER E. HARTMAN, SUPERINTENDENT OF SCHOOLS, FORT SAM HOUSTON INDEPENDENT SCHOOL DISTRICT, SAN ANTONIO, TEXAS

Mr. HARTMAN. I am Luther E. Hartman, Superintendent of Schools of the Fort Sam Houston Independent School District at San Antonio, Texas. I wish to thank the Chairman and Committee Members for this opportunity to appear before this Committee in regards to P.L. 81-815, as amended. This law concerning schoolhouse construction in Federally impacted areas is of vital importance to my district and to many in similarly situated school systems across the United States.

To understand the full implications of the dependence of the Fort Sam Houston Independent School District upon this law and the vital concern we have, I will briefly describe the district and its fiscal constraints.

The district is one of 15 independent school districts located in Bexar County, Texas (San Antonio metropolitan area). The Fort Sam Houston Independent School District was created under authority of the State of Texas (Art. 2756b, TRCS) in accordance with U.S. statutorily authorized agreements entered into with the Department of Army and the Department of Health, Education and Welfare. The district is coterminous with the Army Post (Fort Sam Houston, Texas, at San Antonio) and also includes the post's adjunct field training area, Camp Bullis, Texas, which is located in the northern section of the county. The Army Post is approximately 5 square miles and Camp Bullis is 50 square miles in size. Fort Sam Houston is one of the oldest active army posts in the State of Texas. Its antecedent was the San Antonio Military District which had served the Spanish, Mexican, Texan, Confederate and United States in previous history. The post is now the home of several major commands which include HQ, Fifth United States Army; HQ, Health Services Command; HQ, Army Readiness Region VII; the Academy of Health Sciences; HQ, Southwestern Regional Recruiting Command; Brooke Army Medical Center; and many tenant activities.

The schools of Fort Sam Houston are administered in accordance with the applicable state laws of the State of Texas and is legally classified as an independent school district, as are the vast majority of school districts in Texas. Members of its governing board are civilians nominated by the Army Post Commander, appointed by the State Education Commissioner and confirmed by the State Board of Education. They possess all of the powers and duties of all other Boards of Trustees of Independent School Districts in Texas.

The enrollment of the district is 1540 students in grades kindergarten through 12 (slightly larger than the median size in Texas). A comprehensive special education program includes children of school age plus an early childhood education component for children 3 to 5 years of age who have handicapping conditions which would jeopardize school achievement upon entry into kindegarten or first grade.

Eligibility to attend the public schools located at Fort Sam Houston is set out by state statute which limits enrollment to those students who reside on the installation and/or whose parents are employed on the installation. In application of these eligibility rules the students are 99.3 percent Federally connected. Dependent children of active duty military personnel who reside on the army post constitute 92 percent of the membership. Over 7 percent of the students are children of active duty personnel who are temporarily residing off-post while awaiting assignment to on-post quarters plus a very few whose sponsor departed the post on a non-accompanied assignment overseas. Less than 1 percent of the membership are civilians and are categorized as civilian B students. Less than 1 percent of the membership are children of recently retired personnel who are being allowed to complete the school year that had already begun and have no current Federal connection.

If an active person moves from the district, we don't require thay move their children from the school district as long as transportation is provided by the parent. That is where the 1 percent comes from.

The district experiences an 18 to 20 percent turnover of student personnel during the school year and a 32 to 35 percent turnover each calendar year.

Revenue for operating expenses is received primarily from two sources. Minimum Foundation School funds are received from the State and P.L. 81-874 Federal funds based upon local contribution rates per student of comparable school districts. Over the past several years this annually averages between 47 to 53 percent from either; some years Federal funds are slightly above 50 percent and other years state funds are slightly above. The most recent statewide studies prepared in 1976 for the Texas Legislature reflect that approximately 50 percent is the average state revenue received by school districts to operate the schools; the other 50 percent is raised from local taxes by the local districts.

Being totally situated and coterminous with a military installation there is absolutely no non-exempt taxable property to serve as a tax base to generate local revenue for operation or for construction purposes.

Schoolhouse construction in Texas has historically been a local responsibility. This responsibility has traditionally been accomplished through the issuance of bonds which constitute a mortgage on all taxable property in the district and can be issued only upon authorization secured in a tax and bond election called for that purpose. Traditionally, these are voted on by bond issues. We can't have a bond issue because we have no taxable property that will carry the bonds.

Mr. **Jennings**. Were those 815 payments which built the buildings up through 1968?

Mr. **Hartman**. Yes.

The report from Chief, School Construction Branch, Division of School Assistance in Federally Affected Areas, DHEW, which was issued after an on-site inspection in November 1976 states:

"The boundaries of the school district are coterminous with Fort Sam Houston Military Reservation; hence, the entire school district is Federal property. While the school district does participate in State financial assistance for maintenance and operation purposes, it does not have any local source of taxation (tax base) for those purposes; nor does it have any tax base for capital outlay (school construction) because of its status as non-taxable Federally-owned property.

"The State of Texas does not provide any funds for school construction assistance; hence, Fort Sam Houston ISD is wholly dependent upon the provisions of Section 10 of Public Law 81-815 for such assistance. Through conserving some of the funds received from State maintenance and operation assistance, and/or from funds received under Section 3 of Public Law 81-874, the district has acquired a few temporary school facilities (portable classrooms) within recent years. However, it would be out of the question to expect the district to create a construction fund by this method. Further, the expenditure of maintenance and operation monies must inevitably detract from the district's ability to offer a comparable education program."

Construction of the present facilities was accomplished with Federal funds received under P.L. 81-815. The first building was constructed in 1951 and consisted of an 18 classroom elementary school. It was enlarged in 1952, 1956 and 1959 to its present size of 38 classrooms, a library, cafeteria, principal's office and auxillary spaces.

The Robert G. Cole Junior-Senior High School was also constructed in installments. The original classrooms and ancillary rooms were built in 1962 and the buildings enlarged in 1964, 1967 and 1968. Cole presently consists of 25 clasdsrooms and laboratories, library, cafeteria, administration offices, JROTC rifle range, gynmatorium and small industrial arts shop.

Temporary or portable buildings have been obtained from DHEW's division of surplus properties or borrowed from the Army Post. These consist of three temporary classrooms at the Cole campus and five surplus pre-World War II frame type army barracks which are being used at the elementary school to house the kindergarten and some special education programs. We have borrowed the use of two barracks type frame buildings for other programs such as the profoundly mentally handicapped. The district is now using a total of 7 surplus barracks or temporary type buildings.

Applications to alleviate the space shortage and to meet the requirements of a contemporary educational program have been pending since 1969. Each year that the applications are in a "pending" and non-funded status amplifies the problem, compounds the solution, and increases the costs for correction due to inflationary pressures. At the present time not one building in the district meets the requirements of the regulatory definition of "minimum school facilities."

Our dilemma and frustration result from two sources. First, we are intrinsically motivated and feel under a duty to provide a comprehensive and high quality education to each of the children who attend public schools on the army post and who are dependents of military personnel.

Second, we are under a duty to meet the requirements of legislation enacted by Congress and enforced by the Department of Health, Education and Welfare. We are also under a duty to meet all State statutory and regulatory requirements in the operation of a school district in accordance with State laws.

There are many examples of the above dilemma; however, a few can well illustrate the point. There can be many examples of this dilemma and frustrations, however, a few can suffice to illustrate.

Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and Section 607 of the Education of the Handicapped Act (P.L. 94-142) provide that no architectural barriers will prevent the access of the handicapped to equal educational opportunities and programs. There are no funds available to accomplish this remodeling and adaptation of buildlings. The Bureau of Education for the Handicapped is not preparing to publish further rules on architectural barriers. Texas statutory requirements which are quite similar to the Congressional Act have been required since January 1, 1970. In addition, Cole High School (1964 construction) was planned and built without meeting the standards of the Texas Fire Escape Law concerning school buildings.

In regards to the Rehabilitation Act, section 84.22(d) of the regulations requires ". . . where structural changes are necessary, such changes shall be made within three years of this part (June 3, 1980), but in any event as expeditiously as possible." Also in the same section is an admonition that recipients of DHEW funds "shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate." Structural plans for elimination of all barriers are directed to be made before December 3, 1977.

Proposed rules for the Education of the Handicapped Act will require essentially the same compliance using the term "least restrictive environment" for individually planning an educational program for the handicapped. To meet the requirements of this law even more space will be necessary.

Programmatically, more space is at a premium and absolutely needed to meet state and Federal educational standards. I did not see the necessity for an explanation of the following until the last note. Where we say by State statute class sizes in the primary grades must be reduced to below 20, that was put in the education bill and failed passage, so it failed. However, a special session is due in July. There was no opposition to that section, and I don't doubt but that it will be the law by September.

When you reduce the State requirement of future people ratio to 20, then the ESOE rules for calculating space on the basis of 30 children per classroom is no longer a valid way to calculate the number of unhoused students.

Title IX of the Education Amendments of 1972 (P.L. 93-380) levies space requirements on the school district that comply with equal opportunities for both sexes. This is especially applicable if only extremely limited facilities are available for physical education and athletic programs. In our district compliance with the letter and the spirit of Title IX required that programs for boys had to be severely curtailed in order to achieve balance between the two programs in the provision of dressing rooms, practice space, and actual game or contest schedules.

Disregarding for the moment the additional space and remodeling requirements of recently enacted laws—safety and major maintenance items continue to increase. The buildings are in dire need of many large capital outlay requirements. The steam heating system of the elementary school has served well past its efficient life expectancy. As the elementary school was expanded in the past, the original heating system was merely extended and not enlarged. This produced a system in which classrooms close to the boiler room are unusually hot, and those more distant are extremely cold during winter weather.

Improvements absolutely necessary to meet requirements of Life Safety Codes, standards of the American National Standards Institute, state building, fire and safety codes have been recommended by the DHEW regional engineering office in Dallas. Many of the recommendations concerning fire and safety requirements are consistently brought to our attention by the post fire chief upon his routine inspections. These include the following examples: 1) Overloaded electrical system which needs grounding wire at each outlet; 2) automatic sprinkler system to building areas which do not meet flame-resistant requirements; 3) outside exit doors to large rooms; 4) panic hardware on all exit doors; 5) an audible-visible alarm system; 6) additional exit lights; and many others.

Other improvements and replacement of worn-out areas included repavement of all existing parking lots, driveways and playground areas, re-roofing of most buildings, replacement of hot water heating equipment, etc., etc.

An estimate of funds required was made by the Dallas DHEW Regional Office engineers. Their most recent cost estimate is slightly over $4.25 million. Our estimate is $5.3 million. The difference is primarily due to the rules which will implement P.L. 94-142 (Education of the Handicapped Act) and the lower teacher-pupil ratios mandated by the state. Neither law's requirements were known at the time of the on-site inspection in November, 1975.

The recent study and its recommendations were predicated upon a request made by the Deputy Secretary of Defense, 8 October 1974, to the Secretary of DHEW. An in-depth study of all section 10 (P.L. 81-815) buildings was begun. Actual on-site visits were scheduled for 141 buildings located on 51 military reservations from Puerto Rico to Alaska, New York to California and Washington State to Georgia. This study was begun in December, 1974, and completed about January, 1976. Cost estimates of all recommendations were completed in the spring of 1976. The final report, I was told in May had been submitted to the Secretary, Department of Health, Education and Welfare. I was unable to ascertain the total official estimate for all section 10 building needs. However, I have heard this morning, as you have, reliable estimates that bringing the existing buildings up to Life Safety Code requirements and providing schools for children temporarily housed in barracks or attending half-day sessions will require $200 million.

From information that I have collected it would appear that other most critical of the very critical needs are also located in Ft. Buchanan, Puerto Rico; Ft. Bragg, North Carolina; Ft. Campbell, Kentucky; Ft. Riley, Kansas; and West Point, New York.

Funding for school construction under P.L. 81-815 has been severely inadequate since 1967. Problems of maintenance and aging buildings has made a bad situation worse.

This law (P.L. 81-815) itself provides: "No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purposes as this Act." Thus, no appropriation to the Department of Army may be used in lieu of P.L. 81-815 appropriation, to provide school facilities.

There is no legal provision for state funding of school facilities in Texas. So the Defense Department is unable to assist us.

There is no way for the local district to collect taxes or to issue bonds for the construction of school facilities since the entire district consists of Federal tax-exempt property.

An attempt to qualify for funds under the Public Works Employment Act of 1976 (P.L. 94-369) was made in the fall of 1976. We were informed that we were not eligible to apply because the land to be improved was U.S. Government property and that technically the title would become vested in the U.S. Commissioner of Education, DHEW, and not in a state or local unit of government.

By now members of the committee can see our obvious predicament. Receipt of funds under this law is our only possible solution.

I feel that this session of Congress and that this Administration can and should enable us to meet the requirements of the other laws. It is extremely difficult to explain to youth that even though the Congress that passes the laws and the Administration that executes and enforces the laws chooses not to obey the laws.

Several of my colleagues accuse me of being politically naive. However, if this be so, it enables me to live without the gross cynicism that is today so prevalent. I feel that the laws that have been passed were meant to govern us all and to be obeyed. I am also convinced that our elected and appointed officials also feel this way and are deeply so committed.

On April 28, 1977, Secretary Joseph A. Califano, Jr., DHEW, sent an 11-page statement, which was forwarded to superintendents of schools throughout the U.S. It accompanied the regulations pursuant to Section 504 of the Rehabilitation Act. Several declarations made by the Secretary give us just cause for optimism in our plea to obtain sufficient funding to comply with law. He states:

"Handicapped children must not be segregated in the public schools, but must be educated with the non-handicapped in regular classrooms to the maximum extent possible.

"Programs or activities in existing facilities [illegible] made accessible to the handicapped, and if no other alte[illegible] will achieve accessibility, structural changes must be made within three years. No exceptions to the program accessibility requirement will be allowed.

"Congress has another important role in making Section 504 a creative instrument for effecting needed change. It must carefully assess whether additional funds will be necessary if recipients are to comply promptly with the Congressional mandate and the regulations implementing that mandate. I will aggressively seek new Federal monies under the Education for the Handicapped Act to help elementary and secondary schools to meet their obligations.

"I will seek whatever additional funds are necessary to make certain that we have adequate resources to provide such technical assistance."

Since our buildings technically belong to the U.S. Commissioner, P.L. 815 is the only way we can comply with the laws Congress has made and the regulations with HEW, itself.

With these very strong positive statements by the Secretary, I feel that we have just and real cause to be optimistic that funding will be provided to meet not only the requirements of section 504, but also the mandatory requirements of other Federal and State laws and mandates.

It would seem that the section 10 buildings would be the first to be brought up to statutory requirements, for technically the buildings are U.S. Government property. The U.S. Commissioner of Education under the Secretary DHEW is the landlord. It would also seem that he would want his buildings to be the first to comply with the congressional mandate and the laws which he will enforce "with no exceptions."

The Post Commander, in making the last application for 815 school construction, has written to USOE that "the dependent children of our military personnel and their teachers have been forced to endure overcrowded, hot classrooms and other facilities which were not conducive to a good learning or teaching environment..... I share the concern of the military families on the installation for the welfare of their children and solicit your support for the timely resolution of the problems encompassed herein."

By return memoranda these observations and concerns were endorsed by the Commanding General, U.S. Army Forces Command, and forwarded to the Adjutant General in Washington, D.C.

Again I want to thank the Chairman and committee members for allowing me to submit these facts and thoughts for your consideration. Similar perplexities and frustrations exist in other school districts whether they are section 5, 10 or 14.

Mr. CORRADA. Thank you very much.

Mr. Hartman, I wish to thank all members of the Panel. There are a few questions I would like to ask.

First of all, Mr. Chase, would you please explain why no construction funds have been made available under 815 to Fort Sam Houston or Fort Buchanan in Puerto Rico?

Mr. STORMER. Funds have been requested on an annual basis for P.L. 815. However, priorities established by the Administration and the Congress have limited the amounts of money which have been appropriated. Within those sums that have been appropriated, amounts have been distributed on the basis of priorities established in accordance with the regulations, and, as a consequence, neither Fort Buchanan nor Fort Sam Houston have been funded to date, because they have not been able to be reached on the priority list with the appropriations set forth under the particular section under which these two applicants qualify.

Mr. CORRADA. Now, within the limitations of the budgets that you have had to work with, how are those priorities determined, Dr. Stormer?

Mr. STORMER. As Dr. Chase indicated in his testimony, the priorities are established in two fashions, and I will address this question, in two fashions.

Within the Act itself, there are statutory recommendations or statutory requirements that certain sections of the Act be funded ahead of other sections of the Act. These are contained and explained more fully in the testimony.

However, even though the authority exists in statute, establishing priorities, those priorities have been altered by the language which is contained in the appropriations that have been put forth.

When we are speaking to the priorities of individual applications, these are based on the computations of the numbers of children which are eligible for payment, compared to the total membership in the school district.

That ratio is combined with the ratio of the number of unhoused children compared to the total membership in the school district. Those two ratios combined together set the priority indexes. All applications are treated in the same fashion, in the same manner and ranked in order. From that ranking under each section, the amounts of money available to each section of law are obligated down the priority lists as far as possible.

Mr. CORRADA. How much of an appropriation would it take to reach the Fort Buchannan application in Puerto Rico?

Mr. STORMER. I don't have that figure immediately at hand. We can provide that.

Mr. CORRADA. Would you provide that to the committee?

Mr. STORMER. Yes, unless Dr. Woofter happens to know.

We will provide it for the record.

[The above-referred to information follows:]

According to best estimates available at this time, $59,683,000 would be needed for Section 10 in order to fund Fort Buchanan (approximately $50,126,000 to fund projects that are presently ahead of Ft. Buchanan and $9,557,000 to fund the Junior-Senior high school project requested at Ft. Buchanan). Any changes in priority rank in the reexamination of applications as well as the inflation factor of actual bid prices might well change the dollar amounts.

Mr. CORRADA. Mr. Chase, for FY 1977, the Congress has appropriated $25 million for the PL-815 school construction program. What proportion of the total FY 1977 demand for funds as reflected in FY 1977 applications to date will this $25 million permit USOE to meet?

Dr. **Chase**. It's a very small percentage of the amount needed. As I indicated, there are some $845 million in backlog, so it's very insignificant, really.

Mr. **Corrada**. How much, in your mind, would be necessary to complete the demand?

Dr. **Chase**. As we had indicated, it would be approximately $845 million, because that is our present backlog. That doesn't include, of course, the amount that has to be taken off for the disaster payments.

Mr. **Corrada**. Concerning the consequences of this backlog for school districts, do most such districts eventually get school construction money also or do the school facilities not get built?

Dr. **Chase** Very often it's the latter case, because, as indicated in earlier testimony today, tax loads are at the extreme in some districts where they do need the money, and it's practically impossible to build required facilities. It's a matter of using temporary spaces, to meet the need.

Mr. **Pinney**. From the school district standpoint I might help you there.

Mr. **Corrada**. Yes; please go ahead.

Mr. **Pinney**. We have a number of students in trailers and substandard buildings. In our particular school district we have 25 classrooms that are earthquake unsafe under the Field Act in California. We must move out of these by July 1. We can move into trailers, but it's very difficult to have a high school program in a trailer. We are finding that with trying to operate shops and home economics and small motors and this type of thing. So it's just a real problem.

Mr. **Corrada**. I can very well see that.

Mr. Pinney, what are, in your mind, the practical consequences for a school district when a PL-185 application goes unfunded for a number of years?

Mr. **Pinney**. In our case we have had some like that. An application in 1970 still has not been funded, and we are having difficulties. The consequences are you increase class size, and you try to put classes together by bringing in trailers. In our State we are only allowed to use the trailer three years; so we have to keep track of which trailer camp at what date, and then move that trailer out and move another trailer in. The expense is very, very severe to us, because for a triple wide trailer, this is 60 by 30, it costs us right around $5,000 a year to rent it. We can't buy it because after three years it's no good to us.

Mr. **Corrada**. If PL-815 funds are not available, do the school facilities usually tend to get built using other capital sources?

Mr. **Pinney**. No. We have tried two times in the last year to pass a bond issue and both times the bond issue has gone down 6 to 1 simply because our assessed value in the district is so low. It's $46 million. Our tax rate is one of the highest in the State, $7.00. The people there just cannot afford to go for a bond issue. To bring $480,000 into our district it would take $1.25 additional tax rate. So we have a real problem. The people want good schools but they are taxed as high as anyone in the State, and they just can't support additional taxes.

Mr. CORRADA. Mr. Hartman?

Mr. HARTMAN. May I react to that also?

Mr. CORRADA. Yes, please go ahead.

Mr. HARTMAN. In our situation we are approximately 50 percent funded by the State and 50 percent funded through PL-874. If our buildings and our programs fail to meet State accreditation standards and our accreditation is withdrawn, our district would fold, because there is no way we could operate on 50 percent funding, so the only other feasible choice that I see at this time is that some way or another we will have to become a section 16 school.

Mr. PINNEY. There is one other point I would like to make. This money we are spending for renting trailers is coming out of operation funds, and in our fairly small district we are spending $50,000 to $55,000 a year to rent trailers.

Mr. CORRADA. Mr. Hartman, from an LEA prospective, are there any outstanding problems with the administration of the PL-815 program?

Mr. HARTMAN. I think the chief problem is there is just not enough programs. As far as recalculating our exact standing in line, this would be just an academic exercise, even if we could move up from number 40 to number 20, because only numbers 1, 2, and 3 or thereabouts are going to receive any funding. So, as far as the administration of the program, I don't believe I can react to it, because I haven't really seen it administered.

Mr. CORRADA. How would you suggest improving the PL 815 legislation basically, and summarizing what you said before?

Mr. HARTMAN. Generally I think of the immensity of the problem, which is great, and when something is great it's always relative to something. It's a lot of money if you are talking about one school in one place, and not in relation to the entire Federal budget.

If you are discussing it in relation to the Federal budget, it's not that huge a problem, and I think it should be properly funded. Then, if I could put in a word which is very biased, some of my colleagues here may be in disagreement and perhaps they would want to speak, but to me, when we are in buildings that are owned by the United States Goverment and title held by the United States Commissioner of Education, they should be the first buildings brought up to specification and meet the Congressional and the regulatory requirements. We have no other place to turn.

Chairman PERKINS. Let me ask a question if the gentleman will yield.

Mr. CORRADA. I certainly yield to the distinguished Chairman of the committee.

Chairman PERKINS. I am wondering, for the record, to what extent are you delinquent in your area or school district under 815 school construction, in terms of dollars?

Mr. HARTMAN. It is estimated by the Dallas regional office at $4.2 million; we estimate $5.3 million.

Chairman **Perkins**. For the children in the State, do you know what the total figure would be within your own State?

Mr. **Hartman**. For all 815?

Chairman **Perkins**. Yes.

Mr. **Hartman**. No, sir; I don't. I receive a printout of the section 5 schools, and there I think the data is so old that it's not safe to use for generalization. I talked to two or three colleagues about their applications. One said that since application, seven years, funds had been secured from another source, but yet this list is not updated frequently enough for us to say well, that is a good list.

Chairman **Perkins**. What actually happened was that the Administration twelve years ago proposed to phase out 815, and the appropriation has gone down hill ever since or remains stationary at a small figure. I would like to hear from the other superintendent if he wants to make a statement on this issue.

Mr. **Pinney**. The question Mr. Corrada asked about what would be a suggestion that we could do——

Chairman **Perkins**. Let me ask you, do you need school construction, 815 money, in your area or is it 874 that you are primarily concerned with?

Mr. **Pinney**. No. I am concerned also witih Public Law 815. We have 500 unfunded applications, and as I mentioned while you were out, we have 26 classrooms that are earthquake unsafe; we have children in trailers. We are very desperate.

Chairman **Perkins**. That is on a Government base or off Goverment base?

Mr. **Pinney**. It's off base, but we are 78 percent impacted with students. The Government in the past four or five years has decided they do not want to be landlords. They have forced the people off the base, and the off-base area then is trying to supply us.

Chairman **Perkins**. In one sense of the word we commenced to encourage that several years ago. But now it's a question of the Congress living up to its commitment. That is, whether we are going to build these schools where the communities don't have the resources. Do you have the resources to construct these schools until we put some money in 815?

Mr. **Pinney**. That is right. We have attempted to tax bond issues. They have gone down five to one, in one case, and six to one in another. The people have the highest tax rate in the State. The only employers are tax free employers. The base, for example, is a primary employer; the school district is the second employer. The community hospital is third and the post office is fourth. We have no other industry.

Chairman **Perkins**. I would like to ask Mr. Stormer and Dr. Chase to supply for the record a list of school applications pending for P.L. 81-815, setting forth the specific districts and the amount of funding that it will take to bring these outmoded and outdated schools up to date.

If you can give me that information this morning, fine.

Mr. **Stormer**. We cannot provide that information this morning, Mr. Chairman, but we will provide a priority listing of unfunded applications.

[The above referred to information follows]

Tentatively Revised July 1977

ORDER OF PRIORITY INDICES AND FUNDS NEEDED-SECTION 5 and 14(c)

Project No.	Applicant	Priority		Funds Needed	
		Tent.	Firm	Tent. $	Firm $
OK-72-C-434	Talihina I.S.D. #32 (14c)**		66.4		635,170
WY-68-C-1601	S.D. #6, Lyman II**		61.8		82,302
CA-78-C-8001	San Antonio S.D.	48.0		100,750	
NE-75-C-502	Macy S.D. #16		46.2		207,613
MS-77-C-1102	Hancock Co. Bd. of Ed.	45.4		528,200	
NE-76-C-1	Bellevue S.D. #1 (W)		41.4		1,216,019
CA-68-C-1603	Stoney Creek Jt. U.S.D. **		34.4		57,370
NV-75-C-603	Clark Co. S.D., Las Vegas		32.6		1,203,840
WA-77-C-37	Bridgeport S.D. #75	31.5		120,250	
CA-74-C-50	Indian Wells Valley Jt. U.S.D.		27.4		441,450
WA-78-C-19	Brewster S.D. #111-203J	26.2		138,125	
SC-74-C-501	Sumter Co. S.D. #2 (W)		23.5		835,354
TX-73-C-32	Lampasses I.S.D.		23.4		178,605
TX-72-C-49	Flour Bluff I.S.D.		23.2		473,473
IL-69-C-4	O'Fallon Comm. Cons. S.D. #90		22.8		148,410
AZ-72-C-510	Agua Fria U.H.S.D. *		21.6		208,041
CO-69-C-12	Harrison S.D. #2, Colorado Springs (Sec.8)		20.4		350,520
CA-74-C-546	Kern Jt. SChool District (W)		19.8		257,850

(W) = Waiver area
*/** - See notes on page 20

Project No.	Applicant	Priority Tent.	Priority Firm	Funds Needed Tent.	Funds Needed Firm
AZ-72-C-501	Sierra Vista Comm. S.D. #68		19.6		217,620
TX-70-C-1801	United Cons. I.S.D., Laredo		19.4		185,962
CA-70-C-546	Kern Jt. UHSD, Bakersfield (W)		19.0		225,556
CA-77-C-58	San Diego Unif. S.D. (W)	18.6		1,469,650	
IL-70-C-17.5	Central E.C.S.D. #103, O'Fallon		18.4		34,615
IL-70-C-1	Mascoutah Comm. Unit #19		18.4		740,278
WI-70-C-1801	Jt. S.D. #1, Mauston		18.4		188,100
AZ-75-C-5601	Rangue Verde S D #13		18.3		127,110
GA-76-C-24	Richmond Co. Bd. of Ed. (W)		18.0		203,700
NV-72-C-601	Churchill Co. S.D., Fallon		18.0		355,854
NE-70-C-1801	Shelton Pub. S.D. #19-41		17.4		25,670
TX-68-C-61	Del Valle I.S.D.		17.0		169,344
IN-69-C-1705	N. Central Sch. Consol., Palmyra		16.8		115,045
CA-70-C-702	Central U.E.S.D., Lemoore		16.6		398,468
IL-70-C-602	Rantoul Twp. H.S.D. #18		16.6		128,075
WA-77-C-19	Brewster SD #111-0035		16.6		84,500
CA-71-C-58	San Diego Unif. S.D. (W) (A21-Cabrillo Hgts)		16.4		250,971

Project No.	Applicant	Priority Tent.	Priority Firm	Funds Needed Tent.	Funds Needed Firm
WI-71-C-1001	Jt. S.D. #1, Bayfield (Crestview)	16.4		54,571	
TX-75-C-804	Jackson I S D	16.2		930,700	
AZ-68-C-501	Sierra Vista C.S.D. #68		16.0		89,380
AR-72-C-11	Gosnell S.D. #6		15.8		238,469
RI-69-C-2	Town of N. ~~Kinstown~~ Kingstown School Dept.		15.8		831,733
CA-75-C-58	San Diego Unif S.D. (W) (B25-Murphy Canyon Heights)	15.6		1,459,485	
CA-71-C-58	San Diego Unif S.D. (W) (B21-Chesterton)		15.4		235,144
VA-70-C-14	Sch. Bd. of King George Co.		15.4		218,000
CA-72-C-50	Indian Wells Valley Jt. U.S.D.		15.0		198,205
NM-72-C-1	Alamagordo Mun. S.D. #1*		14.9		44,745
AK-71-C-5	Greater Anchorage Area Boro. S.D.		14.8		3,617,325
CA-70-C-811	Wheatland U.H.S.D.		14.6		124,013
NM-73-C-513	Cuba I.S.D.		14.6		267,976
CA-71-C-50	Indian Wells Jt. U.S.D.		14.4		43,030
NM-70-C-503	Cloud Croft Mun. S.D. #11 **		14.4		32,832
NE-71-C-12	S.D. of Plattsmouth		14.2		111,720
TX-71-C-61	Del Valle I.S.D.		14.2		605,775

Project No.	Applicant	Priority Tent.	Priority Firm	Funds Needed Tent.	Funds Needed Firm
VA-70-C-5	Co. School Bd. of Yorktown		14.2		1,052,650
AZ-71-C-501	Sierra Vista C.S.D. #68		14.0		121,180
VA-71-C-1	City of Virginia Beach Sch. Bd.		13.8		2,700,000
AZ-68-C-202	Tempe E.S.D. #3		13.7		443,684
IL-69-C-1101	Wesclin Comm. U.S.D. #3		13.6		146,803
NJ-69-C-601	Burlington Twp. Bd. of Ed.		13.6		166,725
KS-69-C-1501	Unif. S.D. #449, Easton		13.4		27,470
OH-71-C-208	Wayne Township S.D., Dayton		13.3		505,195
MS-68-C-2	Biloxi Mun. Sep. S.D.		13.1		166,582
CA-72-C-57	Chula Vista C.S.D. *		13.0		1,446,970
AZ-68-C-10	Avondale S.D. #44		13.0		91,723
IL-69-C-17	Wilmington Comm. Unif. S.D. 209U		13.0		106,335
TX-70-C-413	Copperas Cove I.S.D.		12.9		139,050
LA-71-C-1501	Bossier Parish Sch. Bd. #3		12.7		146,750
AZ-68-C-507	Sunnyside H.S.D. #12, Tucson		12.6		55,917
ID-68-C-7	Jt. S.D. #204, Kamiah **		12.4		25,425

Project No.	Applicant	Priority Tent.	Priority Firm	Funds Needed Tent.	Funds Needed Firm
IL-70-C-702	Lebanon Comm. H.S.D. #8		12.4		17,710
CO-71-C-505	El Paso Co. S.D. #3, Security		12.2		399,200
NV-7[illegible]-C-603	Clark Co. S.D., Las Vegas (W)	12.1		373,198	
AL-68-C-11	Enterprise City Bd. of Ed.		12.0		146,472
MS-71-C-1001	Harrison Co. S.D., Gulfport *		12.0		368,368
CA-70-C-627	Los Alamitos S.D.		11.9		597,700
IL-69-C-701	Joliet Public Schs. Dist. #86		11.9		904,230
SC-73-C-1	Summerville S.D. #1		11.9		339,845
AZ-70-C-201	Yuma Co. E.S.D. #1, Yuma		11.8		501,296
FL-75-C-5	Clay Co. Bd. of Ed., Green Cove		11.1		815,360
CA-69-C-1606	Petaluma City S.D.		11.0		199,995
AL-70-C-10	Ozark City Schools		10.8		185,308
CA-71-C-623	Ocean View S.D. *		10.8		192,780
KY-69-C-1601	Jefferson Co. S.D., Louisville **		10.8		3,425,000
NM-69-C-603	Los Lunas Cons. Schools		10.7		199,104
VA-71-C-17	Co. Sch. Bd. of Prince William Co.		10.7		2,103,465
AZ-77-C-1401	Pendergast S.D., Tolleson	10.6		102,340	
WI-70-C-1802	Unif. S.D. #1, Ashland		10.6		179,640

Project No.	Applicant	Priority Tent.	Priority Firm	Funds Needed Tent.	Funds Needed Firm
CA-70-C-638	Oxnard U.H.S.D.		10.4		853,325
CA-68-C-1607	Petaluma City S.D.		10.4		192,888
OH-70-C-23	Beavercreek Local S.D., Xenia		10.4		350,079
OK-72-C-904	Western Hgts. I.S.D. #41 **	10.4		165,345	
MA-69-C-1701	North Andover Sch. Comm. **		10.2		142,800
MS-70-C-701	Jackson Co. S.D., Pascagoula		10.2		131,775
KS-69-C-1702	Unified S.D. #303, Parsons		10.1		136,690
CA-70-C-815	Lemoore U.H.S.D.		10.1		250,467
CA-70-C-50	Indian Wells Valley Jt. U.S.D.		10.0		98,333
CA-69-C-1101	Oceanside-Carlsbad Jr. Col. Dist.		10.0		29,145
CO-70-C-603	U.S.A.F.Academy S.D. #20, (Crestview)		10.0		181,177
MT-72-C-803	Great Falls H.S.D.		10.0		397,453
WA-70-C-59	South Kitsap S.D. #402		10.0		150,000
IL-69-C-1604	Lincoln-Way H.S.D. #210, New Lenox		9.9		53,550
MD-70-C-3	Bd. of Ed., Anne Arundel Co. (W)		9.8		3,689,940
AZ-71-C-1901	Snowflake U.H.S.D. #60 **		9.6		34,279
FL-69-C-3	Bay Co. Bd. of Ed., Panama City		9.6		549,349
IL-70-C-13	North Chicago E.S.D. #64		9.5		312,[illegible]
CA-71-C-14	Alameda Unif. S.D.		9.4		1,374,688
CA-69-C-1411	Napa Jr. Col. Dist.		9.4		54,069
NC-69-C-4	Cumberland Co. Bd. of Ed., Fayetteville		9.4		561,930
SC-68-C-1	Summerville S.D. #2		9.4		132,810

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ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

Project Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
NJ-68-C-202	Bd. of Ed., Twp. of Ocean		9.2		170,000
IN-69-C-1704	Scott Co. S.D., Austin		9.0		64,010
NJ-68-C-1103	Lanape Reg. H.S.D., Medford		9.0		105,000
AR-69-C-1201	Ashdown S.D. #31		8.9		45,510
GA-70-C-11	Cobb Co. Bd. of Ed.		8.8		1,320,680
VA-73-C-7	City of Hampton S.D.	8.8		1,633,372	
CA-70-C-623	Ocean View S.D.		8.6		129,256
RI-73-C-401	Newport School District		8.6		691,182
TX-72-C-2	Ysleta Indep. S.D.	8.6		1,175,790	
CA-72-C-608	Poway Unif. S.D.		8.5		627,200
FL-70-C-5	Clay Co. Sch. Bd., Green Cove Spgs.		8.4		241,290
KS-70-C-206	Ft. Leavenworth Unif. S.D. #207		8.4		135,850
MO-70-C-1801	Richmond R-XIII S.D.		8.4		66,555
IL-69-C-1704	Union S.D. #81, Joliet		8.2		9,447
TX-75-C-49	Flour Bluff I.S.D		8.1		211,565
OH-68-C-9	Mad River Green Local S.D.		8.0		81,600
IL-69-C-1709	Herrin Comm. U.S.D. #44 **		7.9		153,000
AL-69-C-11	Enterprise City Bd. of Ed.		7.8		127,429
TX-69-C-1701	Sherman I.S.D.		7.8		214,583
KS-70-C-1801	Auburn-Washburn Unif. S.D. 371		7.6		183,597
MO-68-C-3	Center S.D. #49		7.6		168,070
CA-75-C-58	San Diego Unif. S.D.(W) (C-[illegible] Canyon [illegible])	7.5		495,145	

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

roject Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
AK-72-C-401	Alaska St. Operated Schools, Anchorage	7.5		2,024,250	
IL-71-C-12	Comm. Cons. S.D. #70, Freeburg	7.4		41,170	
IL-69-C-1601	Bradley-Bourbonnais Comm. H.S.D.		7.4		57,375
IL-69-C-1701	ESD #96, Romeoville		7.4		143,055
MI-71-C-604	Forsyth S.D., Gwinn		7.4		327,807
TX-69-C-1504	Medina Valley I.S.D.		7.4		32,450
FL-68-C-5	Clay Co. Sch. Bd., Green Cove Spgs.		7.3		183,184
MO-69-C-1601	Ft. Zumwalt Sch. District		7.3		106,560
CA-71-C-246	San Francisco Unified S.D. Treasure Island)		7.0		85,918
MO-68-C-1601	Ft. Zumwalt S.D., O'Fallon		7.0		83,750
CA-68-C-1604	Escalon Unif. S.D.		6.8		57,285
CO-73-C-12	Harrison S.D. #2, Colo. Springs		6.6		414,790
CA-72-C-815	Lemoore U.H.S.D.		6.6		90,650
CO-71-C-12	Harrison S.D. #2, Col. Spgs.		6.6		160,000
MN-72-C-601	I.S.D. #390, Baudette		6.6		47,202
PA-70-C-603	Pocono Mt. S.D., Swiftwater		6.6		213,497
FL-69-C-5	Clay Co. Bd. of Ed., Green Cove Spgs.		6.5		225,970
NC-68-C-501	Wayne Co. Bd. of Ed., Goldsboro		6.2		79,560
MS-70-C-202	Long Beach Mun. Sep. S.D.		6.1		76,125
CA-69-C-608	Poway Unif. S.D.		6.0		144,720

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ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

oject umber	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
VA-73-C-1	City of Virginia Beach Sch. Bd.	6.0		1,658,572	
HI-68-C-201	State Dept. of Ed. ([illegible])		5.8		372,645
CA-69-C-203	Oceanside-Carlsbad U.H.S.D.		5.6		145,825
CA-70-C-1803	Mineral E.S.D. (W)		5.6		2,033
IL-70-C-8	O'Fallon Twp. HSD #203		5.6		62,770
MS-69-C-701	Jackson Co. S.D., Pascagoula		5.6		68,775
MO-69-C-805	Raymore-Peculiar S.D. RII		5.6		26, 640
OK-72-C-11	Norman Indep. S.D. #29	5.6		202,340	
AZ-69-C-501	Sierra Vista C.S.D. #68		5.4		30,960
CA-71-C-811	Wheatland U.:H.S.D.		5.0		47,838
NC-68-C-1	Craven Co. Bd. of Ed., New Bern		5.0		130,455
CA-69-C-45	South Bay U.S.D., Imperial Beach		4.9		238,185
IL-69-C-1508	Bradley E.S.D. #61		4.8		32,895
CA-71-C-702	Central U.E.S.D., Lemoore		4.6		126,616
AL-70-C-11	Enterprise City Bd. of Ed.		4.5		137,385
CA-71-C-47	Victor Valley Jt. U.H.S.D.		4.4		437,[illegible]
MI-69-C-416	Rudyard Twp. S.D. #11		4.4		116,736
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ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

ject mber	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
MD-69-C-7	Bd. of Ed., St. Mary's Co., Leonardtown		4.2		287,300
A-68-C-12	Prince George Co. Sch. Bd.		4.1		99,085
CA-69-C-47	Victor Valley Jt. UHSD		4.0		102,510
FL-69-C-7	Okaloosa Bd. of Pub. Instr.		4.0		578,436
OR 75-C-10	Eagle Point S.D. #9	4.0		69,920	
TX-69-C-2	Ysleta I.S.D., El Paso		4.0		359,900
KS-68-C-1602	Cons. Unif. S.D. #101, Erie		3.9		20,770
NV-69-C-603	Clark Co. S.D., Las Vegas		3.8		954,169
OK-72-C-13	Moore I.S.D. #2	3.8		147,980	
IL-70-C-1709	Herrin Comm. U.S.D. #44 **		3.6		64,400
Guam-71-C-601	Dept. of Ed., Agana		3.6		759,627
NV 72-C-603	Clark Co. S.D., Las Vegas (u)	3.6		115,7[illegible]	
Guam 72-C-601	Dept. of Ed., Agana		3.6		682,714
FL-72-C-5	Clay Co. School Bd., Green Cove Spgs.		3.5		158,015
CA-70C-203	Oceanside-Carlsbad U.H.S.D.		3.4		73,723
CA-71-C-401	Wheatland S.D.		3.4		68,782
HI-69-C-201	State Dept. of Ed. ([illegible])		3.4		524,932
NV-68-C-603	Clark Co. S.D., Las Vegas		3.4		809,396
VA-72-C-1	Sch. Bd., City of Virginia Beach	3.2		667,500	
TX-70-C-213	Burkburnett I.S.D.		3.1		77,557
KS-69-C-3	Derby Unif. S.D. #260		3.0		61,640
MO-68-C-213	Cons. S.D. #1, Hickman Mills		3.0		135,340

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTION 5 and 14(c)

Project	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
CA-69-C-246	San Francisco Unif. S.D. (W)		2.8		35,376
CA-70-C-608	Poway Unif. S.D.		2.6		80,250
MS-71-C-701	Jackson Co. S.D., Pascagoula		2.6		50,765
UT-69-C-3	Weber Co. S.D., Ogden		2.6		175,027
IA-68-C-1101	Lewis Central Comm. S.D.		2.4		18,995
OK-69-C-13	Moore I.S.D.		2.4		70,450
CA-68-C-61	Vista Unif. S.D.		2.2		74,385
AK-72-C-5	Greater Anchorage Area Borough		2.0		663,900
MI-72-C-604	Gwinn Area Comm. Schs.	2.0		94,848	
MO-68-C-407	Excelsior Springs S.D. #40 **		2.0		16,750
CA-69-C-234	Livermore Valley Jt. Unif. S.D.		2.0		184,920
IL-69-C-13	North Chicago E.S.D. #64		1.9		100,291
CA-72-C-246	San Francisco Unif. S.D. (W) – ([illegible])		1.8		27,930
HI-71-C-201	State Dept. of Ed., Honolulu		1.8		1,059,760
ID-69-C-1201	I.S.D. No. 1, Lewiston **		1.8		38,500
MO-69-C-1505	Hazelwood S.D.		1.8		133,200
CA-69-C-19	Muroc Unif. S.D.		1.6		55,174
CA-68-C-37	Coronado Unif. S.D.		1.6		50,359

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

roject Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
CO-69-C-3	Colorado Springs S.D.#11		1.6		184,230
MI-70-C-801	Anchor Bay S.D., New Baltimore		1.6		50,825
HI-68-C-201	State Dept. of Education		1.2		326,340
FL-71-C-5	Clay Co. Sch. Bd., Green Cove Spgs.		1.1		41,040
CA-71-C-203	Oceanside-Carlsbad U.H.S.D.		1.0		54,264
CA-73-C-815	Lemoore Union H.S.D.		.8		11,000
FL-70-C-1	Brevard Co. Bd. of Pub. Instr.		.8		312,417
CA-69-C-405	Springs Folsom-Cordova Jt. Unif. S.D.		.6		84,018
CO-72-C-12	Harrison S.D. #2, Colo. Springs		.6		22,875
MI-70-C-217	Oscoda Area Schools		.4		11,770
MS-72-C-701	Jackson Co. S.D., Pascagoula		.4		11,700
CA-72-C-623	Ocean View S.D.		.2		3,675
HI-72-C-201	State Dept. of Ed., Honolulu		.1		247,950

ZERO PRIORITY APPLICATIONS LISTING BEGINS ON THE FOLLOWING PAGE

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ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

(0) ZERO PRIORITY APPLICATIONS -- SUBPRIORITY ORDER ( ) DENOTES SUBPRIORITY

Project Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
AZ-73-C-25	Pima Co. E.S.D. #1 (W)	(36.9)		676,704	
OK-70-C-1801	Stuart ISD		(23.1)		40,960
IL70-C-1502	Thomasboro Comm. Cons. SD 130		(18.6)		37,835
AZ-74-C-502	Palominas Comm. S.D. #49		(16.0)		41,000
IL-69-C-1702	Custer Park S.D. #44c		(15.6)		22,185
LA-71-C-901	Bossier Parish Sch. Bd. Dist 27	(15.1)		375,920	
IL-75-C-201	Community H.S.D. #123	(14.6)		775,184	
IL-69-C-1103	Gifford Comm. Cons. Gr. S.D. #188		(13.1)		34,425
CO-70-C-1801	Summit S.D. Re-1, Frisco **		(13.0)		60,175
TX-69-C-213	Burkburnett ISD		(12.8)		317,361
CA-68-C-707	Center Jt. S.D., North Highland		(12.5)		188,271
CA-67-C-1511	Elverta Jt. S.D.		(12.0)		47,000
IL-69-C-1707	Okawville Grade S.D. #46		(11.6)		20,655
OK-67-C-1507	South Rock Creek Dep. S.D. 32		(11.3)		13,570
NM-69-C-513	Cuba Ind. Rural Schools		(11.0)		54,900
AK-69-C-1	Kodiak I.S.D.		(10.9)		482,220
TX-69-C-64	Northside ISD, San Antonio		(10.4)		1,036,630
CA-71-C-58	San Diego Unif. SD (W) (Cal- Desegregation)		(9.9)		293,930
IL-69-C-3	Savanna Comm. Unif. S.D. #300		(9.2)		110,925
CO-72-C-1802	Summit S.D. Re-1, Frisco **		(9.0)		67,710
WI-69-C-1701	Jt. S.D. #1, Village of Black Earth		(8.[illegible])		112,2[illegible]
MS-[illegible]-C-5	Ocean Springs Mun. Sep. S.D.		([illegible])		149,625

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

oject Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
IL-70-C-20	Reed-Custer Twp. H.S.D. #206		(8.7)		26,530
OH-70-C-15	Mad River Twp. Loc. S.D.		(8.6)		869,303
TX-68-C-1601	Peaster I.S.D.		(8.6)		6,160
MN-68-C-1601	ISD No. 15, St. Francis		(8.4)		94,500
NJ-69-C-1701	Somers Point Bd. of Ed. **		(8.4)		65,000
MO-69-C-18	Oak Grove Reorg. R-VI S.D.		(8.2)		49,680
CA-71-C-58	San Diego Unif. S.D. (D21- [illegible])		(8.1)		97,225
IL-68-C-1603	Joliet Twp. H.S.D. #204		(8.1)		305,688
AZ-71-C-506	Litchfield S.D. #79		(8.0)		56,440
NJ-68-C-1601	Shore Reg. H.S.D., W. Long Branch		(8.0)		69,840
MN-68-C-5	Circle Pines ISD #12		(7.6)		191,595
TX-68-C-1502	Crowley ISD		(7.6)		30,240
CA-71-C-1502	Washington USD		(7.5)		51,170
IL-71-C-8	O'Fallon Twp. H.S.D. #203	(7.5)		70,840	
TX-70-C-37	Azle ISD		(7.5)		139,725
MA-69-C-605	Town of Shirley Sch. Comm.		(7.4)		61,950
IN-69-C-1703	W. Washington School Corp., & Campbellsburg		(7.3)		76,120
MD-69-C-8	Bd. of Ed. of Prince George's Co.		(7.3)		1,468,000
VA-71-C-13	Stafford Co. Schools		(7.3)		364,665
CA-72-C-1502	Washington Union S.D.		(7.0)		56,350
IL-68-C-1602	Homer Comm. Cons. S.D. #33-C		(6.8)		16,215
KS-70-C-1803	Santa Fe Trail Unif. SD #434		(6.7)		55,055

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

Project Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
NJ-70C-1104	Monmouth Reg. HSD		(6.7)		118,917
OH-70-C-1801	Frontier Loc. S.D., New Matamores **		(6.6)		85,500
CA-69-C-63	Oxnard School District		(6.5)		598,980
IL-69-C-1703	Braceville Comm. S.D. #75		(6.4)		12,240
TX-67-C-414	Dennison ISD		(6.4)		200,000
NE-67-C-7	S.D. #2, Grand Island		(6.3)		94,618
OH-68-C-508	Pickerington L.S.D. **		(6.3)		44,880
IL-69-C-1708	Bourbonnis ESD #53		(6.2)		58,905
MO-68-C-11	Cons. S.D. #4, Grandview		(6.2)		200,000
CA-68-C-1602	Arena U.E.S.D., Point Arena		(5.8)		35,739
IL-69-C-1710	Plainfield Comm. S.D. #202		(5.8)		146,880
MN-69-C-5	Circle Pines ISD #12		(5.7)		167,320
MS-68-C-202	Long Beach Mun. Sep. S.D.		(5.7)		57,550
Gua69-C-601	Dept. of Ed., Agana		(5.7)		1,203,301
CA-71-C-635	Travis Unified S.D.		(5.6)		529,074
AZ-70-C-25	S.D. #1, Tucson		(5.4)		372,735
CA-69-C-1502	Washington U.S.D.		(5.4)		25,125
TX-70-C-1702	Northwest ISD		(5.3)		37,800
WA-70-C-513	North Mason S.D. #403		(5.1)		40,460
CA-69-C-15	Moreno Valley Unif. S.D.		(5.0)		420,492
CA-69-C-635	[illegible] Unif. S.D.		(5.0)		[illegible]1,900

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

ject ber	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
VA-67-C-3	Fairfax Co. Sch. Bd.		(4.9)		3,000,000
MD-67-C-8	Bd. of Ed., Prince George's Co.		(4.7)		4,402,000
NE-68-C-7	S.D. #2, Grand Island		(4.7)		209,070
NY-67-C-1501	UFSD #3, Brookhaven		(4.7)		159,390
WA-67-C-1202	Waitsburg Jt. S.D. #401-10**		(4.7)		15,700
IA-68-C-203	Burlington Comm. S.D.		(4.6)		235,300
IN-69-C-1702	Scott Co. S.D. #2, Scottsville		(4.5)		106,395
OH-69-C-1701	North Olmsted City Schools **		(4.5)		262,280
UT-67-C-1	Bd. of Ed. of Tooele Co.		(4.5)		33,095
					-
MO-67-C-1502	S.D. of Marshall		(4.4)		56,115
CA-67-C-1513	Sylvan U.S.D. Modesto		(4.3)		90,200
TX-67-C-80	Burleson I.S.D.		(4.3)		54,500
MO-69-C-801	Harrisonville H.S.D.		(4.2)		46,800
CT-67-C-604	Town of Monroe S.D.		(4.0)		87,360
MD-70-C-7	Bd. of Ed. St. Mary's Co.		(4.0)		382,700
CT-70-C-406	Town of Ledyard S.D.		(3.9)		154,350
NJ-67-C-1402	Cherry Hill Township Schools		(3.9)		481,740
WA-67-C-1302	Dayton S.D. #2 **		(3.9)		28,772
IN-69-C-1701	E. Washington Sch. Corp., Pekin		(3.8)		39,790
KS-67-C-803	Shawnee Mission Unif. S.D. #512		(3.8)		69,600
NJ-67-C-1201	Bd. of Ed., Evesham Twp.		(3.8)		67,890

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

roject Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
GA- 69-C-14	Houston Co.Bd. of Ed.		(3.7)		378,880
RI- 70-C-401	Newport Sch. Dept.		(3.6)		389,623
AL- 67-C-1	Huntsville City Bd. of Ed.		(3.5)		558,600
CA- 67-C-1111	Riverdale Jt. U.S.D.		(3.5)		27,060
NM- 69-C-402	Gallup-McKinley Co. Bd. of Ed.		(3.5)		409,981
^ TX- 69=C-504	North East ISD, San Antonio		(3.5)		547,520
CA- 75-C-32	Fallbrook Union S.D.		(3.4)		322,392
MN- 70-C-12	ISD 115, Cass Lake		(3.4)		55,575
AK- 67-C-1402	Greater Juneau Bor. S.D.		(3.3)		118,720
OH- 73-C-208	Wayne Township Local S.D.		(3.3)		327,700
WA- 68-C-4	Clover Park S.D. #400		(3.3)		785,317
CA- 67-C-234	Livermore Valley Jt. Unified SD		(3.3)		258,300
KY- 67-C-4	Hardin Co. Bd. of Ed., Elizabethtown		(3.2)		135,660
MO- 69-C-206	Ft. Osage Reorg. S.D. #1		(3.2)		96,480
NM- 67-C-12	Las Cruces S.D. #2		(3.2)		266,750
CA- 67-C-1514	Walnut S.D. **		(3.1)		67,240
Guam 70-C-601	Dept. of Ed., Agana		(3.0)		661,982
LA- 71-C-1	Bossier Parish Sch. Bd. Dist. 13	(2.9)		404,928	
CT- 68-C-406	Town of Ledyard S.D.		(2.5)		74,128
MO- 67-C-1504	Lexington Reorganized SD R-U		(2.5)		23,220
	94-581 538				

55%

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTION 5 and 14(c)

Project Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
CA-67-C-405	Folsom-Cordova Jt., Unif. S.D.		(2.3)		200,900
MD-69-C-1	Bd. of Ed. Harford Co., Bel Air		(2.3)		546,550
NJ-68-C-1501	Washington Twp. Pub. Schs.		(2.3)		74,690
MD-67-C-1	Bd. of Ed. Harford Co., Bel Air		(2.2)		413,600
OH-67-C-15	Mad River Twp. L.S.D., Dayton		(2.2)		181,697
IL-67-C-1404	Penfield Com. Consol. S.D. #224		(2.2)		2,025
CA-67-C-47	Victor Valley Jt. U.H.S.D.		(2.1)		69,700
OH-67-C-1103	Heath City S.D.		(2.1)		27,930
CA-67-C-1409	Buckeye U.E.S.D.		(2.0)		10,660
CT-69-C-3	Town of Groton		(2.0)		307,458
ND-67-C-501	Grands Forks Pub. S.D. #1		(2.0)		251,712
IL-70-C-1506	E.S.D. #114, Manhattan		(1.8)		5,635
KS-68-C-1603	Unif. S.D. #247, Cherokee		(1.8)		13,020
IL-70-C-201	Comm. H.S.D. #123, N. Chicago		(1.7)		16,905
CA-68-C-1516	Fountain Valley S.D.		(1.7)		111,150
CT-68-C-3	Town of Groton		(1.7)		241,490
CA-68-C-234	Livermore Valley Jt. Unif. S.D.		(1.5)		147,915
TX-67-C-509	Pottsboro Common S.D. **		(1.5)		6,376

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTIONS 5 and 14(c)

oject umber	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm
CA-68-C-45	South Bay USD, Imperial Beach		(1.4)		65,835
RI-73-C-1	Middletown Pub. School		(1.4)		154,413
NM-69-C-12	Las Cruces SD #2		(1.4)		141,520
MO-68-C-1505	Hazelwood S.D.		(1.3)		148,740
CA-67-C-1203	Apple Valley S.D.		(1.2)		9,840
OH-69-C-429	Southeast Loc. S.D., Ravenna		(1.2)		22,910
CA-67-C-42	Seeley U.S.D.		(1.1)		6,396
IL-69-C-1603	Joliet Twp. H.S.D. #204		(1.0)		45,135
CA-67-C-1304	Manteca U.S.D.		(1.0)		206,000
RI-67-C-2	Town of N. Kingstown Sch. Dept.		(.9)		33,440
MI-72-C-2001	Watersmeet Twp. S.D. **		(.9)		4,864
VA-67-C-501	City of Newport News Sch. Bd.		(.8)		394,669
NY-67-C-409	Common S.D. #2, Blooming Grove		(.7)		39,537
CA-69-C-40	Barstow Unif. S.D.		(.6)		11,457

ORDER OF PRIORITY INDICES AND FUNDS NEEDED SECTION 5 and 14(c)

Project Number	APPLICANT	Priority		Funds needed	
		Tent.	Firm	Tent.	Firm

* Application includes some pupils countable for payment due to connection with low-rent housing project assisted under United States Housing Act of 1937. Payment for such pupils may be made only after all other applications with pupils eligible under section 5(a)(2) or (3) have received payment (20 U.S.C. 633)

** Impact of federally connected pupils not related to military installations nor Indian lands.

55%

Tentatively Revised
July 1977

ORDER OF PRIORITY INDICES AND FUNDS NEEDED
SUBSECTION 14(a) and 14(b)

Project Number	Applicant	Priority Tent.	Priority Firm	Initial Estimate of Funds Needed Tentative	Initial Estimate of Funds Needed Firm
AZ 78-C-404	Chinle E.S.D., Tsaile Waiver area		200.0		$6,500,000
AK 75-C-5001	Galena City S.D.		167.6		1,000,000
K UT 76-C-2	San Juan Co. S.D. (Waiver #1)		148.4		3,042,000
UT 76-C-2	San Juan Co. S.D. (Waiver #2)		147.0		1,865,000
AK 76-C-6001	North Slope Borough Schools, Barrow		141.8		10,000,000
MT 75-C-404	Lodge Grass E.S.D. #27		108.4		3,042,000
MT 75-C-1601	Lodge Grass H.S.D. #2		107.0		1,379,610
MT 75-C-5001	Frazer H.S.D. #28		106.6		1,639,539
MT 75-C-17	Frazer E.S.D. #2		104.4		472,024
MT 76-C-3001	E.S.D. #28, St. Ignatius		102.1		1,139,377
Az 77-C-1105	Keams Canyon S.D. #25		100.8		3,500,000
MT 75-C-406	E.S.D. #9, Poplar		98.7		3,725,000
AZ 73-C-607	Kayenta E.S.D. #27		96.0		2,304,000
Az 77-C-516	Window Rock S.D. #8	95.9T		42,631	
AZ 76-C-516	Window Rock S.D. #8		88.5		42,631,000
WA 77-C-602	Wellpinit S.D. #49	87.2 T		1,377,450	

*Potential BIA P.L. 93-638 projects

Project Number	Applicant	Priority Tent.	Priority Firm	Initial Estimate of Funds Needed Tentative	Initial Estimate of Funds Needed Firm
NM 73-C-402	Gallup-McKinley (Navajo Waiver)		85.8		910,000
NM 77-C-402	Gallup-McKinley (Navajo Waiver)	84.0 T		10,300,000	
AZ 76-C-1001	Apache Co. S.D. #19, Ganado		82.4		6,890,000
AZ 74-C-517	Indian Oasis S.D.		80.3		5,748,749
AK 75-C-5002	Craig City S.D.	79.2 T		1,850,000	
MN 69-C-403	I.S.D. #707, Nett Lake		78.9		89,500
SD 76-C-404	Shannon Co. I.S.D. #1		78.2		1,253,100
AZ 76-C-404	Chinle S.D. #24		76.2		32,569,092
AZ 73-C-16	Yuma S.D. #27, Parker		70.4		1,524,624
NM 77-C-411	Tularosa Municipal S.D. #4	69.4 T		3,000,000	
AZ 76-C-607	Kayenta S.D. #27	69.0 T		5,249,000	
AK 76-C-1102	Hydaburg Public Schools	62.2 T		4,685,868	
NM 73-C-402	Gallup-McKinley (Crown Pt. Waiver)		62.2		1,470,000
AZ 71-C-805	Union E.S.D. #62		61.6		117,000
AZ 77-C-702	Tuba City Unif. S.D.	60.4 T		13,670,350	

Project Number	Applicant	Priority Tent.	Priority Firm	Initial Estimate of Funds Needed Tentative	Initial Estimate of Funds Needed Firm
NM 76-C-4	Espanola Municipal S.D. (San Juan Waiver Area)	59.6 T		882,000	
NM 75-C-512	Jemez Springs Municipal S.D.	56.0 T		1,550,000	
OK 75-C-5002	Oaks Mission S.D.	55.7 T		200,000	
SD 74-C-3001	West River I.S.D. #18 (Waiver)		55.6		400,000
MT 76-C-14	Elementary S.D. #9, Browning	53.5 T		579,720	
NM 77-C-406	Grants Mun. S.D. #3 (Waiver)	52.4T		2,832,500	
NM 77-C-402	Gallup-McKinley (Crown Point Waiver Area)	52.1 T		12,320,000	
MT 73-C-14	Browning E.S.D. #9		51.6		1,092,000
MT 75-C-410	Hardin E.S.D. #17-H		51.4		1,680,000
AK 75-C-5003	Dillingham City S.D.	50.8 T		2,500,000	
NM 77-C-512	Jemez Springs Municipal S.D.	47.6 T		1,600,000	
AZ 73-C-14	Northern Yuma Co. U.H.S.D.		45.9		415,600
NM 75-C-802	Magdelena Municipal S.D.	44.4 T		150,000	
MN 71-C-401	Red Lake S.D.		44.0		773,280
OK 76-C-437	Salina S.D.	42.9T		350,000	
SD 71-C-1801	Waubay I.S.D.		42.8		318,750
MT 78-C-1801	H.S. Dist #2, Harlem		40.7		900,000
OK 73-C-3001	Pleasant Grove I.S.D. #5		37.4		109,358

Project Number	Applicant	Priority Tent.	Priority Firm	Initial Estimate of Funds Needed Tentative	Initial Estimate of Funds Needed Firm
UT 76-C-401	Uintah S.D., Vernal	37.0 T		270,000	
SD 76-C-507	White River I.S.D. #29	36.0 T		2,539,584	
WA 71-C-25	Clallam Co..S.D.		32.2		667,705
OK 75-C-437	Salina S.D.	31.8 T		238,000	
OK 75-C-601	Little Axe S.D.	30.3 T		130,000	
ID 77-C-1202	Western Benewah S.D. #42	29.8 T		90,000	
MT 70-C-1801	Harlem H.S.D.		29.6		159,712
NM 75-C-411	Tularosa Municipal S.D.	29.5 T		2,350,000	
NM 77-C-407	Bernalillo Bd. of Ed.	27.1 T		1,480,000	
ND 76-C-6001	Eight Mile S.D. #6, Trenton	27.0 T		800,000	
MT 76-C-7	E.S.D. #30, Ronan	26.2 T		1,176,000	
NM 75-C-412	Bloomfield Municipal S.D.	26.2 T		872,000	
SD 76-C-6001	Lyman Co. S.D. #12		22.6		950,000
NM 75-C-603	Los Lunas Cons. S.D.	22.2 T		475,000	
OK 76-C-1103	Pocola S.D.	19.7 T		365,750	
MT 75-C-14	Browning E.S.D. #9	19.1 T		7,753,480	

Project Number	Applicant	Priority		Initial Estimate of Funds Needed	
		Tent.	Firm	Tentative	Firm
KS 70-C-1802	Mayetta S.D.		18.2		130,000
MN 75-C-5001	I.S.D. #435, Waubun	18.1 T		30,000	
NM 76-C-603	Los Lunas Consolidated Schools	17.9 T		475,000	
WA 77-C-32	Granger S.D. #204	17.0 T		412,500	
OK 76-C-911	Checotah I.S.D. #19	16.2 T		300,000	
MI 75-C-5001	Bark River-Harris S.D.	15.9 T		250,000	
AZ 74-C-702	Tuba City H.S.D.		15.8		1,168,000
IA 69-C-1701	C.S.D., S. Tama County		13.8		219,800
WA 71-C-44	Wapato S.D. #207		13.5		456,750
UT 72-C-401	Uintah S.D.		13.2		916,000
OR 70-C-13	Jefferson Co. S.D.		13.1		226,000
MN 75-C-401	I.S.D. #38, Red Lake	12.9 T		3,227,600	
OR 76-C-13	Jefferson Co. S.D. #509C	12.2 T		281,000	
NM 75-C-9	Pojoaque Valley I.S.D.	12.1 T		634,653	

Project Number	Applicant	Priority		Initial Estimate of Funds Needed	
		Tent.	Firm	Tentative	Firm
CA 71-C-619	Bishop Union S.D.		12.0		102,690
OK 75-C-5001	Falls S.D. #31	11.1 T		130,000	
AZ 72-C-414	Tuba City E.S.D.		10.8		1,638,750
OK 76-C-5001	Falls Dep. S.D. #31	10.2 T		260,000	
NM 75-C-602	Taos Municipal S.D. #1	9.8 T		1,038,300	
NM 73-C-402	Gallup-McKinley (Tse Lee Bonito Waiver Area)		8.0		262,500
MN 75-C-403	I.S.D. #707, Nett Lake	7.9 T		1,426,000	
OK 76-C-6003	Broken Bow S.D.	2.7 T		420,000	
MT 71-C-7	Ronan S.D.		2.4		1,400,000
NM 73-C-402	Gallup-McKinley (Zuni and Towa Yallane Waiver Area)		1.8		70,000
ID 73-C-5	Blackfoot S.D. #55		1.4		440,000

SUBPRIORITY ORDER OF ZERO PRIORITY APPLICATIONS--( ) DENOTES SUBPRIORITY

Project Number	Applicant	Priority		Initial Estimate of Funds Needed	
		Tent.	Firm	Tentative	Firm
WA 75-C-67	LaConner S.D. #311	(78.7)		525,000	
WY 69-C-403	Mill Creek S.D. #14	(75.5)		42,000	
NM 75-C-401	I.S.D. #22, Kirtland	(58.1)		4,168,000	
WA 72-C-1902	Mt. Adams S.D.		(53.2)		450,000
WA 76-C-1902	Mt. Adams S.D. #209, White Swan	(48.5)		409,550	
NV 69-C-701	Elko Co. S.D.		(43.7)		107,000
NM 77-C-402	Gallup-McKinley (Tse Bonito Waiver Area)	(47.6)		1,660,000	
Az 77-C-28	Puerco S.D., Sanders	(42.0)		10,000,000	
WA 77-C-25	Cape Flattery S.D. #401	(29.9)		1,181,380	
NM 75-C-513	Cuba I.S.D.	(28.8)		1,000,000	
SD 76-C-701	McLaughlin I.S.D. #21	(25.8)		223,630	
ND 74-C-503	New Town Pub. S.D. #1		(22.4)		163,761
NM 75-C-407	Bernalillo Municipal S.D.	(20.3)		158,500	
Az 77-C-604	Gila Bend Unif S.D.	(14.5)		750,000	
MT 73-C-3002	H.S.D. #28, St. Ignatius		(13.8)		592,240
MI 75-C-2001	Watersmeet Township S.D.	(13.6)		122,500	
MT 69-C-8	Harlem E.S.D. #12		(9.3)		210,000
NM 69-C-406	Grants Municipal S.D.		(7.9)		783,264
AK 76-C-1601	Yakutat City S.D.		(7.7)		1,250,000
Az 77-C-901	[illegible] S.D.	(7.2)		(?)	
WA 70-C-67	LaConner S.D. #311		(7.0)		91,440
ID 75-C-5	Blackfoot S.D. #55	(6.2)		650,000	
WA 70-C-56	Marysville S.D.		(2.8)		286,900
CA 71-C-530	San Pasqual Valley U.S.D.		(0.6)		200,000
NV 69-C-404	Humboldt Co. S.D.		(.0.1)		231,000

APPLICATIONS TENTATIVELY INELIGIBLE

Project Number	Applicant	Priority		Initial Estimate of Funds Needed	
		Tent.	Firm	Tentative	Firm
MN 75-C-5002	Pine Point Experimental School	I		450,000	
MT 75-C-18	E.S.D. #22, Elmo	I		675,000	
MT 75-C-1203	H.S.D. "G", Box Elder	I		1,600,000	
NM 77-C-402	Gallup-McKinley Co. S.D. (Zuni &Towa Yollane Waiver)	I		9,500,000	
NM 75-C-406	Grants Municipal S.D.	I		697,842	
NM 75-C-409	Dulce I.S.D. #21	I		2,469,000	
SD 75-C-407	Smee I.S.D. #4, Wakpala	I		885,000	

SECTION 10 PRIORITY INDEX LIST

APPLICATION NUMBER	GOVERNMENT INSTALLATION	PRIORITY	COST ESTIMATE
	GROUP I		
	NONE		
	GROUP II		
VA 77-C-FED-2A27	Fort Belvoir	1	$ 2,858,000
AK 77-C-FED-3A27	Elmendorf Air Force Base	2	2,277,700
CA 77-C-FED-12A27	Parker Dam	3	
CA 77-C-FED-8A27	Edwards Air Force Base	4	
NY 77-C-FED-7A27	Plattsburgh Air Force Base	5	3,030,000
CA 77-C-FED-3A27	Mather Air Force Base	6	365,000
TX 77-C-FED-3A27	Fort Hood	7	
WA 77-C-FED-5A27	Fort Lewis	8	3,142,000
	GROUP III		
AK 77-C-FED-6A27	Adak Naval Station	136.22	13,759,700
GA 76-C-FED-3A26	Fort Stewart	130.00	2,930,500
KS 76-C-FED-1A26	Fort Riley	105.7	6,559,000
NY 77-C-FED-1A27	West Point Military Academy	99.88	4,836,000
NC 77-C-FED-2A27	Camp Lejeune Marine Corps Base	95.30	6,746,500
PR 77-C-FED-2A27	Fort Buchanan	92.96	9,557,000
VA 77-C-FED-6A27	Langley Air Force Base	91.94	1,041,000
SC 76-C-FED-5A26	Myrtle Beach Air Force Base	82.10	2,140,800
DE 77-C-FED-1A27	Dover Air Force Base	76.24	
ALA 77-C-FED-4A27	Maxwell Air Force Base	66.66	1,091,600

SECTION 10 PRIORITY INDEX LIST

APPLICATION NUMBER	GOVERNMENT INSTALLATION	PRIORITY	COST ESTIMATE
	GROUP III		
SC 76-C-FED-4A26	Fort Jackson	66.66	$ 1,694,000
KS 76-C-FED-1B26	Fort Riley	61.82	4,933,000
NC 76-C-FED-1A26	Fort Bragg	61.56	1,918,000
GA 77-C-FED-1A27	Fort Benning	52.72	4,512,000
KY 76-C-FED-1B26	Fort Campbell	52.06	5,526,600
TX 76-C-FED-1A26	Randolph Air Force Base	50.52	1,175,666
TX 77-C-FED-2A27	Fort Sam Houston	48.66	1,883,000
NC 77-C-FED-2B27	Camp Lejeune Marine Corps Base	47.60	3,523,000
NC 76-C-FED-1B26	Fort Bragg	46.16	6,297,210
MO 77-C-FED-2A27	Whiteman Air Force Base	45.44	1,742,000
MO 77-C-FED-1A27	Fort Leonard Wood	44.74	5,861,100
VA 77-C-FED-1A27	Quantico Marine Corps Base	43.86	
ALA 77-C-FED-2A27	Fort McClellan	39.0	1,243,700
TX 77-C-FED-4A27	Lackland Air Force Base	35.3	4,018,235
KS 76-C-FED-1C26	Fort Riley	28.10	2,358,000
NC 77-C-FED-2C27	Camp Lejeune Marine Corps Base	22.68	2,200,000
AZ 77-C-FED-10A27	Fort Huachuca	21.4	832,400
NC 76-C-FED-1C26	Fort Bragg	20.90	2,265,360
AZ 77-C-FED-1B27	Williams Air Force Base	20.0	2,381,700
TX 76-C-FED-1B26	Randolph Air Force Base	19.22	1,838,014
KY 76-C-FED-1C26	Fort Campbell	16.94	1,863,160
KY 77-C-FED-2A27	Fort Knox	15.06	13,264,000

SECTION 10 PRIORITY INDEX LIST

APPLICATION NUMBER	GOVERNMENT INSTALLATION	PRIORITY	COST ESTIMATE
TX 77-C-FED-2B27	Fort Sam Houston	9.32	$ 2,370,200
GA 77-C-FED-2A27	Robins Air Force Base	8.56	1,201,175
NC 76-C-FED-1D26	Fort Bragg	1.88	6,997,500
MA 77-C-FED-5A27	L. G. Hanscom Field		

GROUP IV

APPLICATION NUMBER	GOVERNMENT INSTALLATION	PRIORITY	COST ESTIMATE
KS 76-C-FED-1D26	Fort Riley	1	$ 2,791,000
SC 76-C-FED-5B26	Myrtle Beach Air Force Base	2	1,192,500
GA 76-C-FED-3B26	Fort Stewart	3	416,400
KY 76-C-FED-1D26	Fort Campbell	4	6,900,000
SC 76-C-FED-4B26	Fort Jackson	5	343,400
CA 77-C-FED-4A27	Sierra Ordnance Depot	6	191,900
PR 77-C-FED-3A27	Roosevelt Roads Naval Station	7	2,067,000
PR 77-C-FED-1A27	Ramey Air Force Base	8	113,000
NM 77-C-FED-2A27	White Sands Missile Proving Grounds	9	789,271
CA 77-C-FED-1A27	Travis Air Force Base	10	229,000
NC 77-C-FED-2D27	Camp Lejeune Marine Corps Base	11	5,332,000
AK 77-C-FED-5A27	Fort Wainwright		1,068,485
CA 77-C-FED-14A27	Yosemite National Park		335,600
ME 77-C-FED-1A27	Loring Air Force Base		403,000
NH 77-C-FED-1A27	Pease Air Force Base		695,000
NJ 77-C-FED-1A27	Fort Dix		275,700

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SECTION 10 PRIORITY INDEX LIST

APPLICATION NUMBER	GOVERNMENT INSTALLATION	PRIORITY	COST ESTIMATE
ALA 77-C-FED-3A27	Fort Rucker		$ 471,000
SC 77-C-FED-3A27	Beaufort Marine Corps Air Station		1,202,000
MO 77-C-FED-1B27	Fort Leonard Wood		5,037,000
AK 77-C-FED-13A27	Mt. Edgecumbe		702,200
LA 77-C-FED-3A27	England Air Force Base		60,000
VA 77-C-FED-1B27	Quantico Marine Corps Base		1,954,000
GA 77-C-FED-1B27	Fort Benning		
VA 77-C-FED-7A27	Fort Monroe		360,000
AK 77-C-FED-11A27	Fort Greely		1,902,340
CA 77-C-FED-9A27	Mare Island Naval Shipyard		
MA 77-C-FED-1A27	Fort Devens		
NY 77-C-FED-2A27	Governor's Island Coast Guard Base		
ND 77-C-FED-1A27	Garrison Dam and Reservoir		1,200
MD 77-C-FED-1A27	Andrews Air Force Base		
		GRAND TOTAL	$177,067,416.00

Mr. **Stormer**. I would like to speak to that proposition though. We do have priority listings which show these applicants and the amounts of money to which they are entitled.

I would like to mention though that entitlement is based upon the legislation in existence and in many instances it's based upon the per pupil cost of providing minimum school facilities, and in the case of Mr. Pinney here, for example, his amount of the application is based on a per pupil cost established in 1967, so that would be the figure that you would be receiving from our list at the present time, the only alternative, and that would be in accordance with the law.

The only alternative that we would have to provide you information with respect to what it would cost currently is to estimate on the basis of the inflation that has occurred over the period of 10 or 12 years.

Chairman **Perkins**. Thank you; go ahead, Mr. Corrada.

Mr. **Corrada**. Mr. Chairman, I would like to yield back the chair to the Chairman.

Chairman **Perkins**. I am insisting you take the chair; I will do some other things.

Mr. **Corrada**. Okay.

Mr. **Pinney**. Mr. Corrada, to answer your question, you asked what could we do in the law. I think one of the things that hurts us is the fact that we have disasters every year, and it looks like we are going to get our application funded and another disaster occurs, and the money is pointed toward the disaster.

If some money could be appropriated specifically for section 16, the disaster section, and then be replenished as it is needed, then it would not take the money away from those of us who are waiting.

I have an application within 5 of the top, and it remains there, and this year we have the disaster in Kentucky, West Virginia, and Virginia that will now again take the money off the top, and will not let us progress toward the top for our applications.

I think maybe the law could be written so that this money would be provided for section 16, or if not, replenished when it's used in some manner.

Mr. CORRADA. How do you view that recommendation, Dr. Stormer and Dr. Chase?

Mr. STORMER. The law does specify at the present time that in disaster situations we expend from the funds available under section 16 of the Public Law 815, in fact, and we have done that, in fact, over the period of years.

Mr. Pinney's situation is a reasonable one. During the period since the disaster authorization under section 16, we have expended close to $35 million, and this money has not been replenished.

Mr. CORRADA. Mr. Quie?

Mr. QUIE. Thank you.

I would like to find out something, Mr. Stormer. For instance, in your testimony you mention on page 7 a study and then over on page 8 an interim report. Is that one and the same or are these two different things we are talking about?

Mr. STORMER. The interim report was based on preliminary data from the indepth study. The indepth study is anticipated to be supplied to the Congress in its entirety on or about August 30.

Mr. QUIE. About August 30. Could we get a copy then of the interim report? I assume that is available; is that correct?

Mr. STORMER. Yes. The interim report is available; we will supply another copy.

Mr. QUIE. If you would supply that to us on the committee, that would be helpful.

Mr. QUIE. Then you say after August 30 we will have the final?

Mr. STORMER. On or before August 30 is our direction.

Mr. CORRADA. Without objection, the information will be supplied.

[The above-referred to information follows:]

********** Insert 6h here. **********

INTERIM REPORT ON THE IN-DEPTH STUDY OF FEDERALLY-OWNED SCHOOL FACILITIES PROVIDED UNDER SECTION 10 OF PUBLIC LAW 81-815

I. Background

Section 10 of Public Law 81-815 provides that in the case of children who it is estimated by the Commissioner in any year will reside on Federal property at the end of the next fiscal year, (1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children, or (2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children, the Commissioner shall make arrangements for constructing or otherwise providing the minimum school facilities necessary for the education of such children.

The further construction of school facilities on Federal property under the provisions of Section 10 of Public Law 81-815 may be required at present with respect to Federal properties in various States. This obligation would result from a determination that either of the preconditions for funding described above applied. Furthermore, major repair and updating of existing school facilities heretofore provided under Section 10, may be required in a number of instances.

II. Authority to Initiate Study

On October 8, 1974, former Deputy Secretary of Defense Clements wrote former HEW Secretary Weinberger that the absence of adequate funding levels for Public Law 81-815, particularly for Section 10, is impacting adversely on the morale of uniformed service members and is depriving student dependents assigned to installations adequate educational opportunities due to their attendance in inadequate and antiquated school facilities.

In his response of December 2, 1974, to former Deputy Secretary Clements, former Secretary Weinberger stated that it would undoubtedly be of assistance for the Office of Education, in cooperation with the Department of Defense, the Office of Facilities Engineering and Property Management (HEW), and appropriate State and local education agency representatives to make an up-to-date analysis of school construction needs on government installations. In his letter, the Secretary stated that the policy of the Department was that State and local educational agencies should assume the administration of education programs for on-base children. The Secretary added,

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however, that the study would provide a basis for consideration for a change in Departmental policy for this issue.

On March 20, 1975, the Commissioner of Education directed initiation of the in-depth study suggested by former Secretary Weinberger. It has been under way since then to the extent that personnel limitations and other work requirements of the Division of School Assistance in Federally Affected Areas (the agency within the Office of Education responsible for conducting the study) would permit.

III. Current Status of the In-Depth Study

The study initiated in 1975 is still in progress. The study is comprised of three phases of analysis. The first phase is a cost analysis of construction needs on federal installations where there are existing Section 10 facilities. The first phase is substantially complete and is discussed in greater detail below. The second phase is a legal analysis on a State-by-State basis to determine the extent of Departmental legal obligation under the first precondition of Section 10: "[...] no tax revenues of the State or any political subdivision thereof may be expended for the free public education of [children residing on Federal property]". This second phase has been initiated recently and is expected to be completed by the end of August. The third phase consists of an analysis on a project-by-project basis beginning with the highest ranked project on the Section 10 priority index. This analysis will determine whether any local educational agency is able to provide suitable free public education for the children residing on the Federal property involved. The analysis will be conducted in stages in anticipation of the availability of funds.

IV. Related Conditions

Since Fiscal Year 1968, the funding situation with respect to Public Law 81-815 has been restrictive. With the exception of Fiscal Years 1976 and 1977, the funding for the purposes of Section 10 has averaged about $1 million per year since 1972 and the expenditure of that amount has been confined to making emergency repairs to school facilities that already existed. There has not been any money authorized separately to initiate new construction under Section 10, except in Fiscal Year 1976 when $5 million was authorized specifically to make repairs and provide school facilities on Eielson Air Force Base, Alaska. The Fiscal Year 1977 appropriation for Section 10 was $6 million.

Factors have developed over the past ten years which may have exacerbated conditions in various locations. The most significant are: (1) Burgeoning pupil enrollment growth caused by the Department of Defense policy of constructing large numbers of additional on-post military housing units on various installations such as Fort Campbell, Kentucky and Fort Riley, Kansas; (2) deterioration of existing school facilities previously constructed under Section 10 due to age; (3) lack of adequate facilities to conduct a contemporary education program.

An added consideration for adding or updating school facilities has been the desire to provide an inducement for local educational agencies to accept the transfer of ownership of those facilities. This is in accordance with current Departmental policy to have State and local educational agencies assume the responsibilities for the education of children residing on Federal property.

V. Abbreviated Report On the Results to Date From Phase I

At the time the study was initiated in March 1975, there were 174 separate school buildings under the cognizance of the Commissioner of Education as a result of previous construction under Section 10. These school facilities were located on 77 different Government installations in 27 States and the Commonwealth of Puerto Rico. Their distribution is as follows:

State	Government Installation	No. School Building
Alabama	Craig Air Force Base	1
	Fort McClellan	1
	Fort Rucker	2
	Maxwell Air Force Base	1
Alaska	Adak Naval Station	1
	Fort Greely	1
	Eielson Air Force Base	4
	Elmendorf Air Force Base	5
	Fort Richardson	4
	Fort Wainwright	4
	Kodiak Coast Guard Base	1
	Mt. Edgecumbe	1
Arizona	Fort Huachuca	4
	Navajo Indian Reservation, Ganado	1
	Colorado River Indian Reservation, Poston	1
	Williams Air Force Base	1
California	Camp Pendleton Marine Corps Base	1*
	Edwards Air Force Base	2
	Fort Irwin	1*
	Mare Island Naval Shipyard	1

	Mather Air Force Base	1
	Naval Weapons Training Center, China Lake	5*
	Parker Dam	1
	Sierra Ordnance Depot	1
	Travis Air Force Base	1
	Yosemite National Park	2
Delaware	Dover Air Force Base	2
Florida	Eglin Air Force Base	2*
	MacDill Air Force Base	1*
	Patrick Air Force Base	1*
Georgia	Fort Benning	7
	Fort Stewart	1
	Robins Air Force Base	2
Kansas	Fort Riley	5
Kentucky	Fort Campbell	6
	Fort Knox	10
Louisiana	England Air Force Base	1
Maine	Loring Air Force Base	2*(1)
Maryland	Andrews Air Force Base	1
Massachusetts	Fort Devens	1
	Otis Air Force Base	4*
	Westover Air Force Base	3*
	L.G. Hanscom Field	1
Michigan	Selfridge Air National Guard Base	1
Missouri	Fort Leonard Wood	7
	Whiteman Air Force Base	1
New Hampshire	Pease Air Force Base	2
New Jersey	Fort Dix	1
	McGuire Air Force Base	4
New Mexico	White Sands Missile Proving Ground	1
New York	Governor's Island Coast Guard Base	1
	Plattsburgh Air Force Base	2

	West Point Military Academy	2
North Carolina	Camp Lejeune Marine Corps Base	7
	Fort Bragg	7
North Dakota	Garrison Dam and Reservoir	1
South Carolina	Beaufort Marine Corps Air Station	2
	Fort Jackson	2
	Myrtle Beach Air Force Base	1
	Parris Island Marine Corps Recruit Depot	1*
South Dakota	Lake Francis Case	1*
Texas	Fort Hood	1
	Fort Sam Houston	2
	Lackland Air Force Base	1
	Randolph Air Force Base	2
Utah	Dugway Proving Ground	2
Virginia	Fort Belvoir	3
	Fort Myer	1*
	Fort Monroe	1
	Langley Air Force Base	1
	Quantico Marine Corps Base	4
Washington	Fort Lewis	5
	McChord Air Force Base	2
Puerto Rico	Fort Allen	1
	Fort Buchanan	2
	Ramey Air Force Base	1
	Roosevelt Roads Naval Air Station	2
	Total	174

During the intervening period, twenty-six (26) of these school buildings, located on fifteen (15) Government installations in nine (9) States have either been (a) transferred to local education agency ownership under the provisions of subsection 10(b)(1) of Public Law 81-815; (b) declared excess to the needs of the Office of Education and turned over to the General Services Administration for disposal in accordance with that agency's procedures; (c) placed in the process of being transferred to local education agency ownership; or (d) will be declared excess to the needs of the Office of Education. These twenty-six school buildings (identified by asterisk above) were not considered in the first phase of the analysis of school facility needs.

During the conduct of the study, a survey team comprised of representatives from the Office of Education, the Office of Facilities Engineering and Property Management (HEW), the Government installation involved, the local education agency and/or the military agency operating the school, and, in some instances the Department of Defense, made an on-site visit to 139 of the 148 school buildings currently remaining under the cognizance of the Commissioner of Education and not presently scheduled to be transferred or declared excess to Office of Education needs. The remaining nine (9) schools were not visited either because (a) they have recently been improved and are not believed to need any additional construction at this time, or (b) they have been visited by a survey team in the recent past and their needs developed at that time are believed to be accurate today. These are: Edwards AFB(2), Mare Island(1), Mather AFB(1), Fort Devens(1), Governor's Island(1), Plattsburg AFB(2), and Garrison Dam(1). This phase I endeavor, therefore, involved an on-site visit to fifty-six (56) different Government installations located in twenty-two (22) States and the Commonwealth of Puerto Rico.

At this time, the Division of School Assistance in Federally Affected Areas has developed twenty-nine (29) project descriptions of work to be accomplished and these have been submitted to the Office of Facilities Engineering and Property Management (HEW) with a request that it prepare an estimate of the cost of accomplishing such work. Fourteen (14) responses to the requests for cost estimates have been received. These estimates show that $39,163,749 will be required to construct the fourteen (14) projects. Please refer to the attached table for project breakouts. The Division of School Assistance and Federally Affected Areas expects to develop fifty-two (52) additional project descriptions and requests for costs estimates. When this work is completed, the Division will have developed a total of eighty-one (81) project descriptions and requests for cost estimates which will all have been founded on the results of the in-depth analysis begun on March 20, 1975. In some instances, the project descriptions will involve the repair and remodeling of several school buildings under a unified project. In other instances, the project description will be limited to work involved with a single school building.

On the basis of fourteen (14) cost estimates received to date, the average project cost is expected to be $2,797,410. Extending this average cost to cover sixty-seven (67) project cost estimates not yet received, we estimate tentatively that an additional $187,453,672 will be needed. If the statutory preconditions for all of the eighty-one (81) possible projects were satisfied, the estimated cost of these projects, based on Phase I of this study, would be approximately $230 million. However, it should be understood that this figure would be decreased substantially if the statutory preconditions are not met in many instances. On the otherhand, the figure could increase if there are new areas which meet the statutory preconditions.

IN-DEPTH STUDY, SECTION 10, P.L. 81-815
ESTIMATED CONSTRUCTION COST NEEDS, BY GOVERNMENT INSTALLATION

STATE	INSTALLATION	NUMBER OF PROJECTS	ESTIMATED COST NEED (based on ROFEPM on-site review)
Alabama	Craig Air Force Base	1	317,000
	Fort McClellan	1	1,243,700
	Fort Rucker	1	471,000
	Maxwell Air Force Base	1	1,091,600
Alaska	Adak-Naval Station	1	13,759,700
	Fort Greely	1	1,902,340
	Elmendorf Air Force Base	1	2,227,700
	Fort Wainwright	1	1,068,485
	Mt. Edgecumbe	1	702,200
Arizona	Fort Huachuca	1	832,400
	Williams Air Force Base	1	2,381,700
Calif.	Edwards Air Force Base	1	
	Mare Island Naval Shipyard	1	
	Mather Air Force Base	1	
	Parker Dam	1	
	Sierra Ordnance Depot	1	191,900
	Travis Air Force Base	1	
	Yosemite National Park	1	335,600
Delaware	Dover Air Force Base	1	
Georgia	Fort Benning	2	
	Fort Stewart	2	3,346,900
	Robins Air Force Base	1	1,201,175
Kansas	Fort Riley	4	16,641,000

ntucky	Fort Campbell	3	14,289,760
	Fort Knox	1	
uisiana	England Air Force Base	1	
ine	Loring Air Force Base	1	
aryland	Andrews Air Force Base	1	
ass.	Fort Devens	1	
	L.G. Hanscom Field	1	
issouri	Fort Leonard Wood	2	
	Whiteman Air Force Base	1	
.H.	Pease Air Force Base	1	
ew Jersey	Fort Dix	1	275,700
ew Mexico	White Sands Missile Proving Grounds	1	789,271
ew York	Governor's Island Coast Guard Base	1	
	Plattsburg Air Force Base	1	
	West Point Military Academy	1	
Carolina	Camp Lejuene Marine Corps	4	17,801,500
	Fort Bragg	4	17,478,670
. Dak.	Garrison Dam and Reservoir	1	
. Carolina	Beaufort Marine Corps Air Station	1	1,202,000
	Fort Jackson	2	2,037,400
	Myrtle Beach Air Force Base	2	3,333,300
exas	Fort Hood	1	
	Fort Sam Houston	2	4,253,200
	Lackland Air Force Base	1	4,018,235
	Randolph Air Force Base	2	3,013,680

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rginia	Fort Belvoir	1	
	Fort Monroe	1	
	Langley Air Force Base	1	
	Quantico Marine Corps Base	3	
shington	Fort Lewis/McChord Air Force Base	1	3,142,000
.R.	Fort Buchanan	1	9,557,000
	Ramey Air Force Base	1	113,000
	Roosevelt Roads Naval Station	1	2,067,000
	Fort Allen	1	
	TOTAL (estimated cost needs)	47	$131,086,116
	TOTAL	77	
	AVERAGE COST		$2,789,067

OOTNOTES:

Includes Craig Air Force Base, Alabama, which may be closed.

Excludes Eielson Air Force Base, Alaska - already funded.

Excludes Fort Richardson, Alaska - already funded.

Excludes Kodiak Coast Guard Base - to be funded.

Excludes McGuire Air Force Base, New Jersey - to be transferred.

Mr. **Quie**. Since 1971, have you had any flexibility in providing for the construction needs or have you only been able to fill that which was specified in the appropriation bills?

Mr. **Stormer**. Since 1971, if I recall, is the date, when the appropriations language specified the amounts for particular sections of the law. In essence, sections 5, 14 and 10—amounts have been specified for those sections independently.

Mr. **Quie**. What has happened to the backlog?

Mr. **Stormer**. It has grown.

Mr. **Quie**. It doesn't sound to me like a very good way of doing business, unless we don't have any confidence in you and your office. I do not believe that all of the knowledge lies in the Appropriations Committee. I understand that is our problem and that we are going to have to resolve it here in the Congress.

Last week the Appropriations Committee added $20 million to the housing figure for impact aid construction and specified it be used for section 10, group 3; what does that mean?

Mr. **Stormer**. Section 10, group 3? There are four priority groups within section 10. These are established by regulation. Group 3 is the group of priorities that would service the applications where there are significant numbers of unhoused youngsters.

I should preface this by saying that group 1 is emergency repairs, group 2 is the service of applications where a local educational agency has agreed to take ownership of the facility once it has been brought up to current standards, and group 3 is for unhoused, to service the unhoused children; and group 4 is to modify existing section 10 facilities to bring them up to contemporary standards. Those are the priority groupings.

Within those groupings the applications are again ranked in priority order.

Mr. **Quie**. Would you repeat group 1 again for me?

Mr. **Stormer**. Group 1 is the accomplishment of emergency repairs to existing facilities, such as a water system, sewage system, electrical system or a roof caving in.

Mr. **Quie**. When they specify that all of that $20 million should be used for group 3 then, what does that do to your priorities?

Mr. **Stormer**. That would relieve us of the responsibility of taking applications in priority order, we would jump past 1 and 2 and immediately into group 3, if that language continued to remain for that $20 million.

Mr. **Woofter**. It might also, if I might add, it might also have another effect in that it would make us unable to take care of any emergency repairs.

For example, we have a situation in Pease Air Force Base, New Hampshire, where, due to the severe winter last year, the roof has split, two classrooms are not even operable, the water is coming through the roof, and it is causing the tile to peel off the floor. If all of the money were earmarked for group 3, we would have no capability of taking care of any emergency repairs to 156 buildings that we now own that might crop up at any place in the country.

Mr. **Quie**. That seems like an unwise policy by the Congress. Again, can you tell us who and what school districts would fall into each of those four groups, and submit that for the record so we could see who gets cut out and what the impact of this change in priorities does.

Mr. STORMER. I believe at the present time Pease Air Force Base is the only known emergency, but an emergency is the kind of situation that you can't report; we don't know anything other than this one, and others may come up anytime. But we can provide you that which we know of now. The priority listing of unfunded applications that will be provided, as indicated earlier, will indicate the applications in each of the four groups under Section 10.

With respect to this one and all others, I can provide it.

Mr. QUIE. The report mentioned Northeast Mississippi. What is the situation there in Northeast Mississippi noted in both reports? It says: "The committee also concurs with the House recommendation that $5 million be provided for construction of minimum school facilities resulting from temporary Federal activities in Northeastern Mississippi."

Let me ask you, are those needs greater than another district? I have some familiarity if you talk to me about Fort Buchannan in Puerto Rico, say for instance, in comparison with Fort Buchannan?

Mr. STORMER. Let me go back to the statute itself which says that the priority shall be given to sections 9, 10 and subsequently to 14, in addition to the disaster cases. The situation in Northeast Mississippi Tishomingo County, is one being created by the fact of, I believe an atomic energy project. The TVA and the Corps of Engineers have major construction activities going on in this area in which they are bringing in employees and their children.

Literally this would qualify under section 9 of the Act, the provision of temporary facilities for a period where the activity exists longer than one year and less than six years. If I am not mistaken, this area is also one that has encompassed, or incurred, a pinpoint disaster about last December, and so, beyond having pinpoint disaster, they are also having a tremendous influx of TVA and Corps of Engineer dependents.

Mr. WOOFTER. If I might add to that just a little bit, this area, in Tishomingo County, Mississippi, and Harden County, Tennessee, is in basically a rural area. There isn't any major city in the general area that I am aware of. The Tennessee Valley and the Corps of Engineers apparently intend to undertake a major construction program in this area, and the local school district simply would not be able to, with existing facilities, absorb the influx of people that would come in there to construct this enterprise over however many years it might take to do it.

Mr. QUIE. It appears like it would be a pretty high priority.

Mr. WOOFTER. This is the reason for section 9 and the suggestion in this particular area.

Mr. QUIE. On another subject, in the last few years Fairfax County has taken over the operation of the schools at Fort Belvoir, and Arlington County has taken over the schools at Fort Myer. Why does OE still own land and buildings there then?

Mr. STORMER. At the time the agreement was reached with Fairfax County, it was also agreed that the Office of Education would upgrade the existing facilities on Fort Belvoir to the standards of the facilities existing elsewhere in Fairfx County.

To follow that a little bit further, when that was accomplished, or when this would have been accomplished, Fairfax County had indicated it would agree to take ownership of the facilities located on Fort Belvoir. At the time this agreement was reached, it was a time that the Office of Education began to receive less and less money for PL-815, more specifically for section 10. As a consequence, there has been no rehabilitation of these facilities, and they contiue to exist in the state they existed in 1969, and as a consequence, Fairfax County will not take them over until such time as they believe it would be profitable for them and reasonable for them to own the facilities.

Mr. QUIE. Have you requested the money specifically to the Appropriations Committee for upgrading them?

Mr. STORMER. This is a part of our general request for PL-815. The request by the administration has been for roughly $15 to $25 to $30 million. That money is then used in priority order. As indicated before, we don't get too far with the amount of money that we recieve.

Mr. QUIE. When they do take them over, will they eventually buy the land and the facilities from you?

Mr. STORMER. No. The land is usually granted either in fee simple title or in a long term lease of 25 or more years, renewable by the Army to the local educational agency. The buildings themselves would be granted in fee simple title to Fairfax County School District under section 10 (b) of the Act. I should give a little explanation and followup by saying, if additional needs would occur in that area for school facilities, they would be then eligible to apply under section 5 of the Act, and if funds were available under section 5, they could meet these further needs. But this is really an academic point.

Mr. WOOFTER. I think that we should note here, if I might add to that, that the application by Fairfax County on behalf of Fort Belvoir is classified as group 2 of the subclassification under section 10, and in the event the money that you are discussing were to be appropriated for group 3 and specifically earmarked for that group, we would be unable to touch the Fairfax County situation, because it's in a different classification.

Mr. QUIE. How many school facilities does OE own?

Mr. STORMER. There are 148 plus those in the process of being transferred to local ownership.

Mr. QUIE. Could you tell us where, submit for us where they are located?

Mr. STORMER Certainly. That information will be in the Interim Report that will be submitted, as indicated earlier.

Mr. QUIE. Do you have plans of turning those over to school authorities?

Mr. STORMER. When we can receive the agreement of the State educational agency, the local educational agency and the Department of Defense, we will turn them over. We have turned quite a number over in the past few years, and some are in process of being turned over at the present time. Others would be turned over as soon as that kind of an agreement was reached.

Mr. **Quie**. On another subject, the section 504 regulations have now been signed and are in operation, and I have some concern on how some of the local schools are going to fund the changes necessary in order to come into compliance with section 504. However, you have some responsibility also to come into compliance in your own schools and what is OE doing under section 6 bringing schools into compliance and also in section 10 so they can comply with the section 504 regs?

Mr. **Stormer**. We have not instituted any procedures at the present time to bring those facilities which exist up to the provision of access to the handicapped. Those facilities which we have been providing since 1967, I believe that is the year, have been remodeled to provide for the access to the facilities by the handicapped. Those facilities which are being provided at the present time are required to have those features in them. But, at the present time we have not any money specifically earmarked for that purpose.

Mr. **Quie**. How about the section 10 schools? You say some of them are.

Mr. **Stormer**. Some of them have been made accessible to the handicapped and others will be as funds become available.

Mr.**Quie**. Has a survey been made to determine how many of them are and how many of them are not in compliance with 504?

Mr. **Stormer**. Dr. Woofter?

Mr. **Woofter**. The indepth study will carry a total project cost for each installation studied, and within that cost would be included the funds necessary to meet the handicapped requirements as well as to meet the fire safety code requirements of the National Fire Protection Association Code 101, which have been adopted by the Department.

We could pull out, I think, in a majority of cases what the handicapped requirements would cost, but that might not have much relation unless the overall action were taken to also bring in the fire safety code requirements.

Mr. **Quie**. Out of your 148 section 10 schools you said you had 148 separate facilities; when you submit that, could you also tell us which ones aren't in compliance with 504 and which ones are?

Mr. **Stormer**. This requires a detailed search of each of the individual reports since that particular item was not specifically noted. However, the item will be included when the report is completed by August 30, 1977.

Mr. **Quie**. How about title IX on sex discrimination, equality of the facilities for athletics. Do they comply there, and could you tell us whether they do or not on each one of them?

Mr. **Woofter**. We haven't had any compliants, Congressman Quie, with respect to noncompliance with title IX. We are assuming that the schools do comply with title IX. We have no indication to the contrary.

Mr. **Quie**. You wouldn't do anything until somebody complains?

Mr. **Woofter**. Basically I suppose that would be the situation, as long as we have no evidence, or no indication, we are in noncompliance, then I presume we wouldn't explore that any further.

Mr. **Quie**. That is different from 504, which I believe under 504 they have the resonsibility to upgrade if they aren't, if I am not mistaken.

Mr. **Woofter.** The Secretary of DHEW has adopted the Title VI complaint and enforcement procedures for use in implementing Section 504.

Mr. **Quie.** If you need construction, are you going to make requests specifically to upgrade to 504?

Mr. **Stormer.** This will be part of the indepth study in providing the information to the Administration so that they may determine what their policy and procedures will be with respect to section 10 facilities and the amount of money they will request for those facilities.

Mr. **Quie.** Back to 874, if the school is not in compliance with 504 and we will come into that with 94-142 as well, will HEW cut off impact aid?

Mr. **Stormer.** It is my understanding that with the applications for PL-874 which will be submitted to the States and the local educational agencies, they will contain a package of assurances, including the 504 assurances, and that if this is not submitted to the Department, there wou ld be action taken with respect to our program.

Mr. **Quie.** By action, would that mean to cut off the funds?

Mr. **Stormer.** I would presume that would be the action.

Mr. **Quie.** Okay. The last question is how much money has been made available for Indian construction under 93-638?

Mr. **Woofter.** I believe, Congressman, and I am speaking now without the benefit of records here, but I believe the 638 appropriation totalled approximately $10.8 million. I think that included a 1977 appropriation of something in the vicinity of $7½ to $8 milion, plus some additional money, approximatley $3.8 million that had been appropriated in two prior years, and I think that the BIA got a resolution permitting them to combine those three funds for those three sums of money aggregating roughly $10.8 million, and with that money I think they have been able to fund possibly three projects. I am not aware of what their current appropriation is. I cannot speak to that. Nor am I aware of what their next year appropriation is scheduled to be.

Mr. **Quie.** Mr. Chairman, Mr. Fish looks like he wants to say something.

Dr. **Fish.** Mr. Quie, all school districts, I believe, in the country must file an assurance by July 5 that they will come into compliance with the 142 and a series, there are five dates of different things that must be completed; the last one being 3 years, including facilities under that. This assurance must be July 5 and the statements include that all Federal funds are included in this assurance, so we are operating on the assumption we have already signed our life away on that one.

Mr. **Woofter.** I might add one more comment, Dave, to what the Congressman was talking about. In regard to the Federally owned facilities, section 10, the total budget estimate, once the study has been completed, has been projected to $230 million. If that, in fact, turns out to be what the final figure is, that would include funds necessary to bring all of the schools into compliance, with the handicapped requirements, with respect to accessibility and toilet facilities, directional signals for escape, knurled doorknobs, raised numerals, and all of the various aspects of handicapped that are in that law.

Mr. **Quie**. If you receive the money, how long a period of time would it take to finish that?

Mr. **Woofter**. To take care of construction, I would estimate from 1 to 3 years. Some would be large projects and others would be rather small, but in the overall I would suspect it would take about 1 to 3 years to complete the construction from the ground up in some new projects, and to modify some existing buildings.

Mr. **Quie**. Let's assume 3 years. How much should we appropriate each year in order to get that done?

Mr. **Woofter**. I think I would defer to the gentleman here at the table. I might say that if it's strung out over a period of time we have to fund in accordance with priority indices. Some of the projects would probably take the full 3 years to do, but they may not come up high enough on the priority index list at the present time to get started on them, so that might have a tendency to string it out.

Mr. **Stormer**. I think in some instances if you did appropriate money today, it requires planning time, development of architectural plans and specifications and the actual construction, so in larger projects, if you are talking about construction of a large secondary school, this is a 1 to 3 to 4 year proposition, even if the money were made available today. That would be true in the local educational agency, which was starting from scratch with a bond issue.

It's a varying period of time. You cannot really estimate.

Mr. **Quie**. I don't understand why it would take 3 or 4 years if you have the money today for planning. I can understand going through a bond issue and everything, but if you have the money today you don't have that problem.

Mr. **Stormer**. In many instances—and I won't spend a long time on this—but in many instances if a secondary school is necessary, the planning of the educational program, the translation of that into educational specifications, the translation of that into plans and specificatins, the review of all of these, in the normal provision of a larger secondary school, it is not uncommon that it takes a period of 2 to 4 years before the facility can actually be occupied.

Dr. **Chase**. I would like to add to that that there are a number of State and local approvals that are needed for many of these projects also, and that is a time consuming thing. One factor about making funds available is that you can't wait until the project is completed either, in order to fund it. It has to be funded at various stages, architectural design and all of the rest. So a funding project really should be considered rather massive at first, and then it would dwindle down as the projects are completed.

Mr. **Woofter**. I might state, too, in elaborating just a little bit that if you are going to get a good end product, which I think we and the Congress would want to get, it's necessary that you spend some time in reviewing schematic drawings and preliminary drawings, that you get your input into the situation at each step along the way. This is going to do much, in my judgment, to ensure that your end product is going to be good.

You might do it more quickly on a crash basis, but you might not end up with as good a product, and if you are looking at a 30 or 40 year investment I think the time spent is worth it.

Mr. **Corrada**. Mr. Kildee?

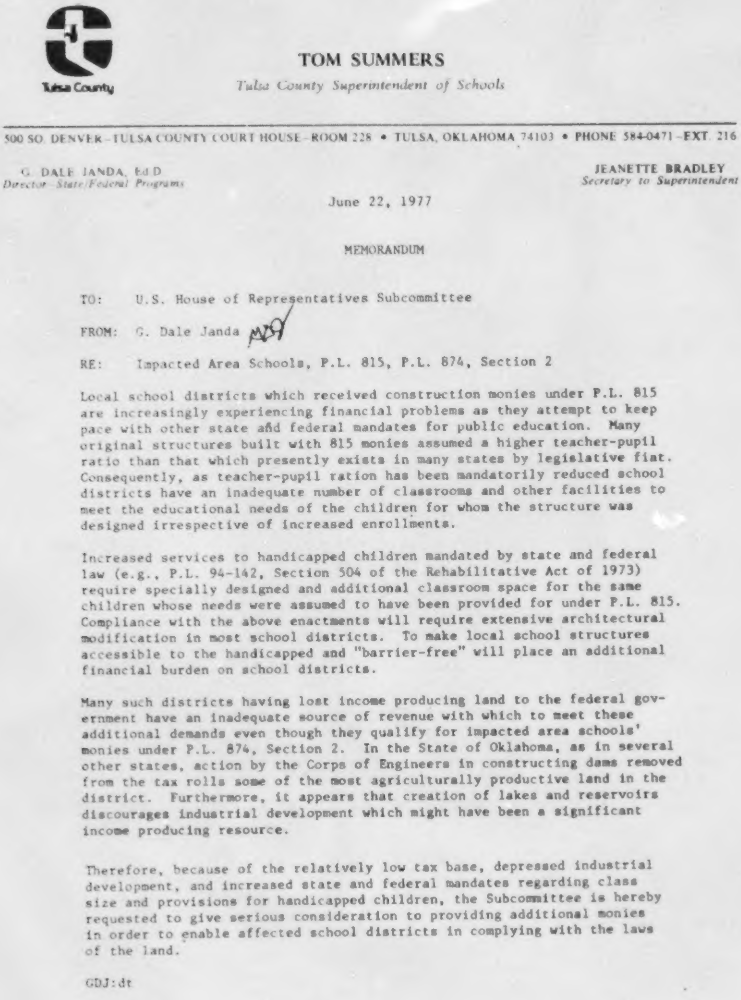
Mr. **Kildee**. Mr. Chairman, I don't think I have any questions at this time, thank you very much.

Mr. **Corrada**. Thank you very much, members of the panel, for your appearance this morning.

The subcommittee will now recess until July 12 at 9:30 o'clock.

[Whereupon, at 11:30 a.m., the subcommittee recessed, to reconvene July 12, 1977, at 9:30 a.m.]

[Additional material submitted for the record follows:]



Tulsa County

TOM SUMMERS
Tulsa County Superintendent of Schools

500 SO. DENVER–TULSA COUNTY COURT HOUSE–ROOM 228 • TULSA, OKLAHOMA 74103 • PHONE 584-0471–EXT. 216

G. DALE JANDA, Ed.D.
Director–State/Federal Programs

JEANETTE BRADLEY
Secretary to Superintendent

June 22, 1977

MEMORANDUM

TO: U.S. House of Representatives Subcommittee

FROM: G. Dale Janda

RE: Impacted Area Schools, P.L. 815, P.L. 874, Section 2

Local school districts which received construction monies under P.L. 815 are increasingly experiencing financial problems as they attempt to keep pace with other state and federal mandates for public education. Many original structures built with 815 monies assumed a higher teacher-pupil ratio than that which presently exists in many states by legislative fiat. Consequently, as teacher-pupil ration has been mandatorily reduced school districts have an inadequate number of classrooms and other facilities to meet the educational needs of the children for whom the structure was designed irrespective of increased enrollments.

Increased services to handicapped children mandated by state and federal law (e.g., P.L. 94-142, Section 504 of the Rehabilitative Act of 1973) require specially designed and additional classroom space for the same children whose needs were assumed to have been provided for under P.L. 815. Compliance with the above enactments will require extensive architectural modification in most school districts. To make local school structures accessible to the handicapped and "barrier-free" will place an additional financial burden on school districts.

Many such districts having lost income producing land to the federal government have an inadequate source of revenue with which to meet these additional demands even though they qualify for impacted area schools' monies under P.L. 874, Section 2. In the State of Oklahoma, as in several other states, action by the Corps of Engineers in constructing dams removed from the tax rolls some of the most agriculturally productive land in the district. Furthermore, it appears that creation of lakes and reservoirs discourages industrial development which might have been a significant income producing resource.

Therefore, because of the relatively low tax base, depressed industrial development, and increased state and federal mandates regarding class size and provisions for handicapped children, the Subcommittee is hereby requested to give serious consideration to providing additional monies in order to enable affected school districts in complying with the laws of the land.

GDJ:dt

ALBERT H. QUIE
1ST DISTRICT, MINNESOTA

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520 FEDERAL BUILDING
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612-725-3690

June 30, 1977

The Honorable Joseph A. Califano, Jr.
Secretary
Department of Health, Education, and Welfare
330 Independence Avenue, S. W.
Washington, D. C. 20201

Dear Joe:

The Subcommittee on Elementary, Secondary and Vocational Education, of which I am the ranking Member, has just completed six days of hearings on the Impact Aid program. The final day of hearings produced some information which I find particularly disturbing.

As you know, under P.L. 815, 81st Congress, the Office of Education owns 156 school buildings at various locations around the country. I believe these facilities are all located on Federal land, most of them military bases. In almost no instance do any of these schools have any source of construction funds other than Section 10 of P.L. 815. Since the regulations to implement Section 504 of the Rehabilitation Act require that all school facilities be brought up to barrier-free standards within a three-year period, these schools have no way to comply with that requirement unless they receive construction funds from HEW.

I know that you are currently in the process of preparing your fiscal 1979 budget request for transmission to the Office of Management and Budget. Given the requirements of Section 504 and the Department's own responsibility to these schools, could you provide specific information as to what request you will make to meet the needs of these schools, and how that amount compares to the actual needs of those institutions for assistance to comply with Section 504.

In addition, from our hearings it was ascertained that due to the normal preparation of building plans and the routine approval of State and local authorities which must be obtained for construction, in some cases it will be impossible to have those facilities modified in time to meet the deadline imposed by the regulations even if sufficient funds were available in the next few months. In the event that those facilities are not up to Section 504 standards by that date, will HEW move to cut off all Federal funding to those school districts? If you will not implement termination procedures, does this create a double standard and one in which a local district or a college could claim that their ability to obtain construction funds to make these modifications is just as limited as the Federal government's? If Section 10 schools are excused, can other elementary and secondary schools and colleges and universities be excused from adherence to this deadline?

I might add that I found especially disturbing the failure of many of these schools to meet safety codes and State space and health requirements. At the hearings, OE officials estimated that at least $230 million would be required to bring these 156 facilities up to specification with respect to the Life Safety Code of the American National Standard Institute and Section 504.

I look forward to a prompt response to this inquiry, and thank you for your kind attention to this matter.

With kind regards, I remain

Sincerely yours,

ALBERT H. QUIE
Member of Congress

AHQ:cma

bc: Hon. James Jeffords
Marty LaVor
✓ Jack Jennings
Bill Stormer
Jean Frohlicher
Jack Duncan

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

JUL 23 1977

Honorable Albert H. Quie
House of Representatives
Washington, D.C. 20515

Dear Al:

Thank you for your letter of June 30 concerning the Department's Fiscal Year 1979 request for funds to assure that schools located on Federal land can comply with the Section 504 regulations.

As your letter indicates, we are still in the process of preparing our FY 1979 budget requests. In doing so, we are making every effort to meet all our obligations, although I'm sure you are aware that we must also operate within rather strict fiscal constraints.

I have asked the Education Division to work with our Office for Civil Rights to supply me with additional information on the specific points your letter raises. I expect to be able to respond further to your concerns in two or three weeks.

Sincerely,

Joe

Joseph A. Califano, Jr.

ALBERT H. QUIE
1st District, Minnesota

COMMITTEES:
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[illegible]

120 Federal Building
Fort Snelling
St. Paul, Minnesota 55111
[illegible]

August 3, 1977

The Honorable Joseph A. Califano, Jr.
Secretary
Department of Health, Education, and Welfare
330 Independence Avenue, S. W.
Washington, D. C. 20201

Dear Joe:

Thank you for your letter of July 23 in response to my letter of June 30, 1977, raising questions with respect to the Impact Aid program and the regulations under Section 504 of the Vocational Rehabilitation Act.

I appreciate the fact that the Department is currently engaged in the budget cycle for FY 1979; however, I do not feel that your letter is responsive to my specific request with respect to how HEW's responsibilities to those schools eligible for assistance under Section 10 of P.L. 815 will be carried out. I am also unable to determine from your response whether or not the Department would move to cut off all Federal funding to those schools if Federal construction assistance is not made available and whether the failure to do so, if that is your decision, would not create a double standard when compared with actions which may be taken against schools responsible for raising construction funds from State and local sources.

Because of the seriousness of this problem and the fact that we will soon be considering amendments to the Impact Aid Act, I would appreciate your specific reply to these questions as well as other issues raised in my original letter.

With kind regards, I remain

Sincerely yours,

ALBERT H. QUIE
Member of Congress

AHQ:cma

APPENDICES

Appendix 1

PUBLIC LAW 874, 81ST CONGRESS

TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

DECLARATION OF POLICY

SECTION 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this title) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.[1]

(20 U.S.C. 236) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong. sec. 1, 64 Stat. 1100; amended April 11, 1965, P.L. 89–10, Title I, sec. 2, 79 Stat. 27.

FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to July 1, 1978—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was

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[1] Sec. 2 of P.L. 92–277, enacted April 24, 1972, provides as follows:

"SEC. 2. All real property of the United States which was transferred to the United States Postal Service and was, prior to such transfer, treated as Federal property for purposes of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred."

not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired,

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition).

(b) For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.

(c) Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time it files application under section 5) for any fiscal year to have (1) the eligibility of such local educational agency, and (2) the amount which such agency shall be entitled to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school district as the agency shall designate in such election.

(20 U.S.C. 237) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., Title I, sec. 2, 64 Stat. 1101; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong., sec. 1, 67 Stat. 530; amended Aug. 12, 1955, C. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 3, 1956, C. 915, P.L. 949, 84th Cong., Title II, sec. 201, 70 Stat. 970; amended Aug. 12, 1958, P.L. 85–620, Title II, sec. 201, 72 Stat. 559; amended Oct. 3, 1961, P.L. 87–344, Title I, sec. 102(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88–210, Title III, sec. 302, formerly sec. 32, 77 Stat. 419; amended Oct. 16, 1964, P.L. 88–665, Title XI, sec. 1102(a), 78 Stat. 1109; amended April 11, 1965, P.L. 89-10, Title I, secs. 2, 5, 79 Stat. 27, 36; amended Jan. 2, 1968, P.L. 90-247, Title II, III, secs. 204(a)-(c) 301(e), 81 Stat. 808, 813; redesignated Oct. 16, 1968, P.L. 90–576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended Apr. 13, 1970, P.L. 91–230, Title II, sec. 201(b), 84 Stat. 154; amended August 21, 1974, P.L. 93–380, sec. 303(a)(1), 88 Stat. 522.

Children Residing on, or Whose Parents Are Employed on Federal Property

CHILDREN OF PERSONS WHO RESIDE AND WORK ON FEDERAL PROPERTY

Sec. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and (1) did so with a parent employed on Federal property situated in whole or in part in the same State as the school district of such agency or situated within reasonable commuting distance from the school district of such agency, or (2) had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949).

CHILDREN OF PERSONS WHO RESIDE OR WORK ON FEDERAL PROPERTY

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1975, the Commissioner shall also determine the number of children (other than children to whom subsection (a) applies) who were in average daily attendance at the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either (1) resided on Federal property, or (2) resided with a parent employed on Federal property situated in whole or in part in the same State as such agency or situated within reasonable commuting distance from the school district of such agency, or (3) had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949). In the case of fiscal years ending prior to July 1, 1975, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or any other provision of this subsection applies) who were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the fiscal year for which the determination is made, a refugee who meets the requirements of section 2(b)(3) (A) and (B) of the Migration and Refugee Assistance Act of 1962.

(c)(1) The amount to which a local educational agency is entitled under this section for any fiscal year shall be an amount equal to (A) the local contribution rate (determined under subsection (d)) multiplied by (B) the sum of the number of children determined under subsection (a) and one-half of the number determined under subsection (b).

(2) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under subsection (a) or the first sentence of subsection (b), as the case may be, unless the number of children who were in average daily attendance during such year to whom such subsection or such sentence applies—

(A) is ten or more; and

(B) amount to, whichever is the lesser, four hundred such children, or a number of such children equal to 3 per centum or more of the total number of children who were in average daily attendance during such year and for whom such agency provided free public education, except that such 3 per centum requirement need not be met by such agency for any period of two fiscal years which follows a fiscal year during which such agency met such requirement and was entitled to payment under the provisions of this section, but the payment, under the provisions of this section to such agency for the second fiscal year of any such two-year period during which such requirement is not met, shall be reduced by 50 per centum of the amount thereof.

For the purposes of this paragraph, a local educational agency may count as children determined under the first sentence of subsection (b) any number of children determined under subsection (a). Notwithstanding the provisions of clause (B) of this paragraph, the Commissioner may waive the 3 per centum condition of entitlement contained in such clause whenever, in his judgment, exceptional circumstances exist which would make the application of such condition inequitable and would defeat the purpose of this title.

(3) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children who were in average daily attendance to whom such sentence applies amounts to 20 per centum or more of the number of children who were in average daily attendance during such year and for whom such agency provided free public education, but in determining the number of such children under such second sentence no child shall be counted with respect to whose education a payment was made under section 2(b)(4) of the Migration and Refugee Assistance Act of 1962.

(4) If—

(A) the amount computed under paragraph (1) for a local educational agency for any fiscal year, together with the funds available to such agency from State, local, and other Federal sources (including funds available under section 4 of this title, but excluding funds available under title II) is, in the judgment of the Commissioner, less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which, in the judgment of the Commissioner, are generally comparable to the school district of such agency;

(B) such agency is, in the judgment of the Commissioner, making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(C) not less than 50 per centum of the total number of children who were in average daily atendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year resided on Federal property; and

(D) the eligibility of such agency under State law for State aid with respect to the free public education of children residing on Federal property, and the amount of such aid, is determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner may increase the amount computed under paragraph (1) to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts; except that this paragraph shall in no case operate to increase the amount computed for any fiscal year under paragraph (1) for a local educational agency above the amount determined by the Commissioner to be the cost per pupil of providing a level of education equivalent to that maintained in such comparable school districts, multiplied by the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who resided on Federal property during such year, minus the amount of State aid which the Commissioner determines to be available with respect to such children for the year for which the computation is being made.

(5) The determinations whether a local educational agency has met the requirements for eligibility under paragraphs (2)(B) and (4)(C) of this subsection for any fiscal year shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlement to any payments under this section to which it would be entitled had the estimate been accurate.

(d) The local contribution rate for a local educational agency (other than a local educational agency in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or in a State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency, or in a State in which there is only one local educational agency) for any fiscal year shall be computed by the Commissioner of Education, after consultation with the State educational agency and the local educational agency, in the following manner:

(1) he shall determine which school districts within the State are in his judgment generally comparable to the school districts of the agency for which the computation is being made; and

(2) he shall then divide (A) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making the computation, which the local educational agencies of such comparable school districts made from revenues derived from local sources, by (B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year.

The local contribution rate shall be an amount equal to the quotient obtained under clause (2) of this subsection. If, in the judgment of the Commissioner, the current expenditures in those school districts which he has selected under clause (1) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of the local educational agency for which the computation is being made, a level of education equivalent to that maintained in such other districts, the Commissioner may increase the local contribution rate for such agency by such amount as he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. In no event shall the local contribution rate for any local educational agency in any State (other than Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands) for any fiscal year be less than (i) 50 per centum of the average per pupil expenditures in such State or (ii) 50 per centum of the average per pupil expenditure in the United States (which for purposes of this sentence and the next sentence means the fifty States and the District of Columbia), but not to exceed the average per pupil expenditure in the State: *Provided*, That if, for the fiscal year ending June 30, 1959, the application of clause (ii) of this sentence results in a lower local contribution rate than resulted from the application of such clause during the fiscal year ending June 30, 1958, as such clause was then in effect, then such clause, as in effect during the fiscal year ending June 30, 1958, shall be in effect during the fiscal year ending June 30, 1959. For the purposes of the preceding sentence the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in the State, or in the United States, as the case may be, plus any direct current expenditures by the States for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding fiscal year. The local contribution rate for any local educational agency in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or in any State in which a substantial proportion of the land is in unorganized territory for which a State agency is the local educational agency, or in any State in which there is only one local educational agency, shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will, in his judgment, best effectuate the purposes of this title and most nearly approximate the policies and principles provided herein for determining local contribution rates in other States.

ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

(e) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) or (b) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur,

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur. Such order of priority shall provide that applications for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of subsection (a) of section 5 have been approved for that fiscal year.

(f) Notwithstanding any other provisions of title I of this Act (including the provisions of section 5(c)), a local educational agency with respect to which the number of children determined for any fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, shall receive an amount equal to 100 per centum of the amounts to which such agency would be otherwise entitled under subsection (a) of this section.

(NOTE.—Section 3 is amended to read as follows with respect to appropriations for fiscal years beginning on and after July 1, 1975.)

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

Children of Persons Who Reside and Work on Federal Property[1]

SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commisisoner shall determine the number of children who were in average daily attendance at the schools of such agency, and

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[1] Section 305(b)(2)(A) of P.L. 93-380 provides as follows:

(2)(A)(i) Notwithstanding any other provision of law unless enacted in express limitation of this subparagraph—

"(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950, for any fiscal year beginning after June 30, 1974, and ending prior to July 1, 1978, on the basis of the entitlement of that agency under such section 3, shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year; and

"(II) in the case of any other local educational agency, the amount so paid during any fiscal year beginning after June 30, 1974, and ending prior to July 1, 1978, shall not be less than 80 per centum of the amount so paid for the preceding fiscal year."

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act, as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a), but which fails to meet such requirement in any fiscal year ending prior to July 1, 1977, such agency shall continue to be eligible for a payment under such section 3 as then in effect for the two succeeding fiscal years, but the payment under such section during the second of such succeeding fiscal years shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B).

(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), which are increased by reason of the provisions of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I is enacted and such law makes no express provision for payments increased by division (i)—

"(I) all funds so appropriated shall be allocated and paid in accordance with section 5 of such Act of September 30, 1950, and without regard for the provisions of division (i); and

"(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget *for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—*

(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

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estimate within the meaning of Section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5))."

(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) of 10 per centum or more of such number—

"(i) During the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

"(ii) During the period beginning July 1, 1973, and ending June 30, 1975."

As the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act, as computed under section 3 of such Act, for any fiscal year ending prior to July 1, 1978, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of this subparagraph shall be effective on and after July 1, 1974, and with respect to appropriations for the fiscal year ending June 30, 1975, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1975. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950.

(C) During the fiscal year in which the amendments made by subsection (a) are effective and each of the succeeding fiscal years ending prior to July 1, 1978, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) for such fiscal year, shall not be less than 90 per centum of the amount which such agency received with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act.

(D)(i) The Commissioner shall determine for each fiscal year beginning after June 30, 1975, and ending prior to July 1, 1978, the amount which each local educational agency would be paid for that fiscal year under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) if the amount appropriated had been allocated as provided in section 5(c) of such Act without regard for entitlements (or portions thereof) which are attributable to determinations under subsections (a) and (b) of such section of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project described in section 403(1)(C). The Commissioner shall then determine the amount which each local educational agency is to be paid for that fiscal year under such section 3 and allocated in accordance with such section 5(c). If the amount determined with respect to any local educational agency under the first sentence of this division is greater than the amount determined with respect to the second sentence of this division, the Commissioner shall pay to that agency an amount equal to the difference between the amounts so determined.

(ii) Funds appropriated for any fiscal year for making payments pursuant to the third sentence of division (i) shall be separate from funds appropriated or such fiscal year for making payments pursuant to section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress). If, for any fiscal year, a law making appropriations for payments pursuant to such section 5 is enacted, and such law makes no express provision for payments pursuant to such third sentence—

"(I) all funds so appropriated shall be allocated and paid in accordance with such section 5, without regard for such third sentence; and

"(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to make the payments required under such third sentence and shall, with respect to such dollar amounts, constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5))."

In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as described in clause (A) of section 403(1).

Children of Persons Who Reside or Work on Federal Property

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1978, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a)) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to July 1, 1978, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

Eligibility for Payments

(c)(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a) and subsection (b), unless the number of children so determined with respect to such agency amounts to—

(A) at least four hundred such children; or

(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education;

whichever is the lesser.

(2)(A)(i) Clause (B) of paragraph (1) shall not operate to make any local educational agency eligible for a payment under this section for any fiscal year unless the number of children with respect to whom determination was made under subsections (a) and (b) respecting such agency for that fiscal year is at least ten.

(ii) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of that clause for the last fiscal year during which such agency was so eligible.

(iii) If the Commissioner determines with respect to any local educational agency for any fiscal year that—

(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title;

the Commissioner is authorized to waive such requirement with respect to such agency.

(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children so determined constitutes at least 20 per centum of the total number of children who were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

Amount of Payments

(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were to average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the

number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), (B)(v); and

(B) in any other case, an amount equal to the sum of—

(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b),

(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b), and

(v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).

(2)(A) Not later than December 1 during each fiscal year beginning after June 30, 1977, the Commissioner shall, except as is provided in clause (iii) in the third sentence of this subparagraph, determine the total number of children with respect to whom determinations are made under subsection (b) for all local educational agencies making application for payments under this section which meet the eligibility requirements set forth in subsection (c). The Commissioner shall determine the percentage which such number constitutes of the total number of children who were in average daily attendance at the schools of such agencies during such fiscal year and for whom such agencies provided free public education. In calculating the products under clauses (B)(iii), (B)(iv), and (B)(v), of paragraph (1), with respect to any local educational agency for any fiscal year, the Commissioner shall reduce the number of children with respect to whom a determination is made under subsection (b) by a number equal to one-half of the number which the percentage determined under the preceding sentence constitutes of the total number of children with respect to whom such determination is made and who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, except that—

(i) such percentage shall not exceed 4 per centum;

(ii) the number reduced shall not exceed three hundred; and

(iii) this subparagraph shall not apply to any local educational agency (I) with respect to which the number of children determined under subsection (b) for any fiscal year amounts to at least 10 per centum of the total number of children who were in average daily attendance at the schools of such agency during such

fiscal year and for whom such agency provided free public education, or (II) during any fiscal year in which such agency receives more than 25 per centum of the funds for its current expenditures from payments under this section.

In determining the total number of children who were in average daily attendance at the schools of an agency during any fiscal year under clause (iii)(I) in the preceding sentence, the number of children in such schools with respect to whom a determination is made under subsection (a) for such year shall not be considered.

(B) If the Commissioner determines that—

(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or clause (1) of subsection (b), or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner is authorized, to increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under, the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or clause (1) of subsection (b), or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

(C)(i) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to handicapped children and children with specific learning disabilities for whom a determination is made under subsection (a)(2) or (b)(3) and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 150 per centum.

(ii) For the purposes of division (i), programs designed to meet the special educational and related needs of such children shall be consistent with criteria established under division (iii).

(iii) The Commissioner shall by regulation establish criteria for assuring that programs (including preschool programs) provided by local educational agencies for children with respect to whom this subparagraph applies are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and in the implementation of such regulations the Commissioner shall consult with persons in charge of special education programs for handicapped children in the educational agency of the State in which such local educational agency is located.

(iv) For the purpose of this subparagraph the term "handicapped children" has the same meaning as specified in section 602(1) of the Education of the Handicapped Act and the term "children with specific learning disabilities" has the same meaning as specified in section 602(15) of such Act.

(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources,

divided by—

(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

(I) 50 per centum of the average per pupil expenditure in such State, or

(II) 50 per centum of such expenditures in all the States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

(ii) If the current expenditures in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

(iii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency.

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands; and

(ii) the "average per pupil expenditure" in a State shall be (I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

Adjustments for Decreases in Federal Activities

(e) Whenever the Commissioner determines that—

(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educa-

tional agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A).

Determinations on the Basis of Estimates

(f) Determinations with respect to a number of children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(20 U.S.C. 238) Enacted Sept. 30, 1950, c. 1124, P.L. 874, 81st Cong., Title I, sec. 3, 64 Stat. 1102; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong., sec. 2, 67 Stat. 530; amended Aug. 12, 1955, c. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 1, 1956, c. 852, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended Aug. 3, 1956, c. 915, P.L. 949, 84th Cong., Title II, secs. 202–206, 70 Stat. 970, 971; amended Aug. 12, 1958, P.L. 85–620, Title II. sec., 202, 72 Stat. 559; amended June 25, 1959, P.L. 86–70 sec. 18(d)(1)–(3), 73 Stat. 144; amended July 12, 1960, P.L. 86–624, sec. 14(d)(1)–(3), 74 Stat. 414; amended Oct. 3, 1961, P.L. 87–344, Title I, sec. 102(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88–210, Title III, sec. 302, formerly sec. 32, 77 Stat. 419; amended Oct. 16, 1964, P.L. 88–665, Title XI, sec. 1102(a), 78 Stat. 1109; amended April 11, 1965, P.L. 89–10, Title I, secs. 2, 3(a), 4(d)(2), 5, 79 Stat. 27, 34–36; amended Nov. 1, 1965, P.L. 89–313, sec. 4(a), 79 Stat. 1161; amended Nov. 3, 1966, P.L. 89–750, Title II, sec. 201, 80 Stat. 1210; amended Jan. 2, 1968, P.L. 90–247, Titles II, III, secs. 204(d), 205(a), 206, 301(e), 81 Stat. 808, 809, 813; redesignated Oct. 16, 1968, P.L. 90–576, Title I, sec. 101(a)(1), 82 Stat. 1064, amended April 13, 1970, P.L. 91–230, Title II, secs. 201(b), 202, 84 Stat. 154, 155; amended August 21, 1974, P.L. 93–380, sec. 304, 88 Stat. 522; rewritten August 21, 1974, P.L. 93–380, sec. 305(a)(1), 88 Stat. 523, 529.

SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE

INCREASES HEREAFTER OCCURRING

SEC. 4. (a) If the Commissioner determines for any fiscal year ending prior to July 1, 1978—

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such agency during the preceding fiscal year and the number of such children whose attendance during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property);

(2) that such activities of the United States have placed on such agency a substantial and continuing financial burden; and

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other finan-

cial assistance but is unable to secure sufficient funds to meet the increased educational costs involved,

then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

(A) the number of children which the Commissioner determines to be the increase, so resulting from activities of the United States, in such year in average daily attendance; and

(B) the amount which the Commissioner determines to be the current expenditures per child necessary to provide free public education to such additional children during such year, minus the amount which the Commissioner determines to be available from State, local, and Federal sources for such purpose (not counting as available for such purpose either payments under this Act or funds from local sources necessary to provide free public education to other children).

For the next fiscal year (except where the determination under the preceding sentence has been made with respect to the fiscal year ending June 30, 1968) such agency shall be entitled to receive 50 per centum of such product reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year, but not to exceed for such year the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds (exclusive of funds available under title II) available to it for such purpose, to provide a level of education equivalent to that maintained in the school districts in such State which in his judgment are generally comparable to the school district of such agency. The determinations whether an increase has occurred for purposes of clause (1) hereof and whether such increase meets the 5 per centum requirement contained in such clause, for any fiscal year, shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlements to any payments under this section to which it would be entitled had the estimate been accurate. The determination under clause (B) shall be made by the Commissioner after considering the current expenditures per child in providing free public education in those school districts in the State which, in the judgment of the Commissioner, are generally comparable to the school district of the local educational agency for which the computation is being made.

INCREASES HERETOFORE OCCURRING

(b) (Subsection 4(b) has been executed.)

COUNTING OF CERTAIN CHILDREN

(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, the Commissioner shall not count—

(A) children with respect to whom a local educational agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year: *Provided*, That the Commissioner shall count for such purposes as an increase directly resulting from activities of the United States, an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property, if the local educational agency files, in accordance with regulations of the Commissioner, its election that such increase be counted for such purposes instead of for the purposes of section 3; and

(B) children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the last sentence of paragraph (1) of section 403.

ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

(d) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur.

the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

CONSULTATION WITH STATE AND LOCAL AUTHORITIES

(e) All determinations of the Commissioner under this section shall be made only after consultation with the State educational agency and the local educational agency.

(20 U.S.C. 239) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., Title I, sec. 4, 64 Stat. 1104; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong., secs. 3–5, 67 Stat. 552; amended Aug. 12, 1955, c. 868, P.L. 382, 84th Cong., secs. 1, 2, 69 Stat. 713; amended Aug. 3, 1956, C. 915, P.L. 896, 84th Cong., Title II, secs. 207, 208, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85–620, Title II, sec. 203, 72 Stat. 560; amended Oct. 3, 1961, P.L. 87–344, Title I, sec. 102(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88–210, Title III, sec. 302, formerly sec. 32, 77 Stat. 419; amended Oct. 16, 1964, P.L. 88–665, Title XI, sec. 102(a), 78 Stat. 1109; amended April 11, 1965, P.L. 89–10, Title I, secs. 3(b), 5, 79 Stat. 34, 36; amended Jan. 2, 1968, P.L. 90–247, Title III, sec. 301(e), 81 Stat. 813, redesignated Oct. 16, 1968, P.L. 90–576, Title I, sec. 101(a)(1), 82 Stat. 1064, amended April 13, 1970, P.L. 91–230, Title II, sec. 201(b), 84 Stat. 154; amended August 21, 1974, P.L. 93–380, sec. 303(a)(2), 88 Stat. 522.

METHOD OF MAKING PAYMENTS [1]

APPLICATION

SEC. 5. (a) (1) No local education agency shall be entitled to any payment under section 2, 3, or 4 of this title for any fiscal year except upon application therefor, submitted through the State educational agency and filed in accordance with regulations of the Commissioner, which application gives adequate assurance that the local educational agency will submit such reports as the Commissioner may reasonably require to determine the amount to which such agency is entitled under this title.

(2) (A) Applications for payment on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

(B) For the purposes of this paragraph, Indian lands means that property included within the definition of Federal property under clause (A) of section 403(1).[2]

PAYMENT

(b) The Commissioner shall, subject to the provisions of subsection (c), from time to time pay to each local educational agency, in advance or otherwise, the amount which he estimates such agency is entitled to receive under this title. Such estimates shall take into account the extent (if any) to which any previous estimate of the amount to be paid such agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it. Such payments shall be made through the disbursing facilities of the Department of the Treasury and prior to audit or settlement by the General Accounting Office. Sums appropriated pursuant to this title for any fiscal year shall remain available, for obligation and payments with respect to amounts due local educational agencies under this title for such year, until the close of the following fiscal year.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

(c) (1) If the funds appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies will be entitled to receive under this title for such year, the Commissioner (A) shall determine the part of the entitlement of each such local educational agency which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964 (other than any such property which is Federal property described in section 403 (1)(A)), and (B) except as otherwise provided in paragraph (3), shall allocate such funds, other than so much thereof as he estimates may be required for carrying out the provisions of section 6, among sections 2, 3, and 4(a) in the proportion that the amount he estimates to be required under each such section bears to the total estimated to be required under all such sections, except that he shall not take into consideration any part of any entitlement determined under clause (A). The amount so allocated to any such section shall be available for payment of a percentage of the amount to which each local educational agency is entitled under such section. Such percentage shall be equal to the percentage which the amount allocated to a section under the second sentenece of this paragraph is of the amount to which all such agencies are entitled under such section. For the purposes of this paragraph, in determining the amount to which each local educational agency is entitled under section 3 he shall include any increases under paragraph (4) of subsection (c) thereof; but he shall exclude any part of any entitlement determined under clause (A) of this paragraph.

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[1] For the purposes of section 5 of the Act of September 23, 1950, the number of children in the membership of a local educational agency residing in a low-rent housing project assisted under the United States Housing Act of 1937 during the years of the base period preceding the effective date provided in paragraph (1) shall be determined by the Commissioner on the basis of estimates. Paragraph (1) provides that the effective date for amendments made by P.L. 91–231, sec. 203(a)(6) is after June 30, 1970.

[2] Section 411(c)(2) of P.L. 92–318 provides as follows:

"(2) (A) The Commissioner shall exercise his authority under section 425 of the General Education Provisions Act, to encourage local parental participation with respect to financial assistance under title I of Public Law 874, 81st Congress, based upon children who reside on, or reside with a parent employed on, Indian lands.

"(B) For the purposes of this paragraph, the term "Indian lands" means that property included within the definition of Federal property under clause (A) of section 403(1) of Public Law 874, 81st Congress."

(2) If the funds available for allocation under paragraph (1) for any fiscal year exceed the amount necessary to fully satisfy entitlements for which allocations will be made under such paragraph, that excess shall be available for payment of a percentage of that part of the entitlement of each local educational agency determined under clause (A) of paragraph (1). Such percentage shall be equal to the percentage which the amount of such excess is of the total amount to which all such agencies are so entitled.

(3) All funds appropriated for making payments under this title for any fiscal year shall be allocated in the manner specified in paragraphs (1) and (2), unless an Act making appropriations for making payments under this title for any fiscal year specifically makes funds available for payments on the basis of entitlements determined under clause (A) of paragraph (1), apart from other payments under this title, in which case, if the funds so appropriated are not sufficient to pay in full the total amount to which all local educational agencies are so entitled, such funds shall be available for making payments in the manner specified in paragraph (2) respecting allocations of any excess appropriations.

(4) In case the amount allocated to a section under paragraph (1) for a fiscal year exceeds the total to which all local educational agencies are entitled under such section for such year or, in case additional funds become available for making payments under this title, the excess or such additional funds, as the case may be, shall be allocated among sections for which previous allocations are inadequate, on the same basis as is provided in paragraphs (1), (2), and (3) for the initial allocation.

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ADJUSTMENTS FOR REDUCTION IN STATE AID

(d)(a) The amount which a local educational agency in any State is otherwise entitled to receive under section 2, 3, or 4 for any fiscal year shall be reduced in the same proportion (if any) that the State has reduced for that year its aggregate expenditures (from non-Federal sources) per pupil for current expenditure purposes for free public education (as determined pursuant to regulations of the Commissioner) below the level of such expenditures per pupil in the second preceding fiscal year. The Commissioner may waive or reduce this reduction whenever in his judgment exceptional circumstances exist which would make its application inequitable and would defeat the purpose of this title.

(2) No payments may be made during any fiscal year to any local educational agency in any State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid (as defined by regulation), or the amount of that aid, with respect to free public education during that year or the preceding fiscal year, or which makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such local educational agency would receive if it were not so eligible.

(3)(A) Notwithstanding paragraph (2) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues.

Whenever a State educational agency or local educational agency will be adversely affected by any decision of the Commissioner pursuant to this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the implementation of such decision.

(B) The terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by the Commissioner by regulation after consultation with State and local educational agencies affected provided that, the term "equalize expenditures" shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.[1]

(NOTE.—Section 5 is amended to read as follows with respect to appropriations for years beginning on or after July 1, 1975.)

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[1] Section 304(c)(3) of P.L. 93-380 provides that this subsection shall be effective only during fiscal year 1975.

PAYMENTS

Applications

Sec. 5. (a)(1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

(2)(A) Applications submitted under paragraph (1) for payments on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed, on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

(B) For the purposes of this paragraph, the term 'Indian lands' means that property included within the definition of Federal property under clause (A) of section 403(1).

Payments by the Commissioner

(b) The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a), the amount to which it is entitled under sections 2, 3, or 4. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

Adjustments Where Necessitated by Appropriations

(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and 4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 and section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 2 or section 3(d), as the case may be, for the such fiscal year.

(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount—

(A) to each local educational agency described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which agency is entitled, as compared under section 3(d) with respect to a determination of a number of children under section 3(a), for such fiscal year;

(B) to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(C) to each educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(D) to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(E) to each local educational agency with respect to which a number of children determined under clause (1) and clause (2)(A) of section 3(b) which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year.

(F) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year; and

(G) to each local educational agency with respect to the amount to which such agency is entitled under section 2 which equals 35 per centum of the amount to which such agency is entitled on the basis of computations made under section 2 for such fiscal year.

(3) Any sums remaining after allocations are made pursuant to paragraph (2) for any fiscal year shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements established under sections 2, 3, and 4 in proportion to the degree to which such entitlements are unsatisfied for that fiscal year, after allocations are made pursuant to paragraphs (1) and (2).

No allocation may be made pursuant ta paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

Treatment of Payments by the States in Determining Eligibilty for, and the Amount of, State Aid

(d)(1) Except as provided in paragraph (2), no payments may be made under this title for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this title in determining—

(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

(ii) the amount of such aid with respect to any such agency;

during that fiscal year or the preceding fiscal year, or (B) if such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

(2)(A) Notwithstanding paragraph (1) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues.

Whenever a State educational agency or local educational agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

(B) The terms 'State aid' and 'equalize expenditures' as used in this subsection shall be defined by the Commissioner by regulation, after consultation with State and local educational agencies affected by this subsection, provided that the term 'equalize expenditures' shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

Limitations on Payments with Respect to Children on, or Residing with a Parent Employed on, Federal Property Described in Section 401(1)(C).

(e)(1) The Commissioner shall determine that part of the entitlement of each local educational agency, for each fiscal year ending prior to July 1, 1978, which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on, property which is described in section 403(1)(C).

(2) No allocation or payment shall be made under paragraph (2) of subsection (c) with respect to that part of any entitlement of any local educational agency which is determined with respect to such agency for such year under paragraph (1). The limitation in this paragraph shall not operate under the last two sentences of subsection (c) to prevent allocations and payments under such paragraph (2).

(3) The amount of the payment to any local educational agency which is determined with respect to such agency under paragraph (1) shall be used for special programs and projects designed to meet the special educational needs of educationally derived children from low income families.

Use of Funds Paid with Respect to Entitlements Increased Under Section 3(d)(2)(C)

(f) The amount of the payment to any local educational agency for any fiscal year which is attributable to a determination of children for increased payments under subparagraph (C) of section 3(d)(2) shall be used by such agency for special educational programs designed to meet the special educational needs of children with respect to whom such determination is made.

(20 U.S.C. 240) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., Title I, sec. 5, 64 Stat. 1106; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong., secs. 6, 7, 67 Stat. 534; amended Aug. 3, 1956, C. 915, P.L. 949, 84th Cong., Title II, sec. 209, 70 Stat. 972; amended April 11, 1965, P.L. 89–10, Title I, sec. 2, 79 Stat. 27; amended Nov. 3, 1966, P.L. 89–750, Title II, secs. 202, 203, 80 Stat. 1211, 1212; amende[illegible]. 16, 1968, P.L. 90–576, Title III, sec. 305(a), 82 Stat. 1097; amended April 1[illegible]70, P.L. 91–230, Title II, sec. 203(c)(4), 84 Stat. 156; subsection 5(a)(2) added June 23, 1972, P.L. 92–318, sec. 411(c)(1), 86 Stat. 339; subsection 5(d)(3) added August 21, 1974, P.L. 93–380, sec. 304(c)(2), 88 Stat. 522, 523; amended August 21, 1974, P.L. 93–380, sec. 304(d)(2), 88 Stat. 523; rewritten August 21, 1974, P.L. 93–380, sec. 305(a)(2), 88 Stat. 529, 533.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 6. (a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the Federal Employees' Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.). In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

(b) In any case in which the Commissioner makes such arrangements for the provision of free public education in facilities situated on Federal property, he may also make arrangements for providing free public education in such facilities for children residing in any area adjacent to such property with a parent who, during some portion of the fiscal year in which such education is provided, was employed on such property, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) in any case where in the judgment of the Commissioner the need for the provision of such education will not be temporary in duration, that the local educational agency of the school district in which such children reside, or the State educational agency, or both, will make reasonable tuition payments to the Commissioner for the education of such children. Such payments may be made either directly or through deductions from amounts to which the local educational agency is entitled under this title, or both, as may be agreed upon between such agency and the Commissioner. Any amounts paid to the Commissioner by a State or local educational agency pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

(c) In any case in which the Commissioner makes arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, and (2) that no local educational agency is able to provide suitable free public education for such children.

(d) The Commissioner may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made under this section only for the provision of education in facilities of a local educational agency or in facilities situated on Federal property.

(e) To the maximum extent practicable, the Commissioner shall limit the total payments made pursuant to any such arrangement for educating children within the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the per pupil cost of free public education provided for children in comparable communities in the State. The Commissioner shall limit the total payments made pursuant to any such arrangement for educating children outside the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the amount he determines to be necessary to provide education comparable to the free public education provided for children in the District of Columbia.

(f) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of sections 3 and 4 of this Act. If a local educational agency refuses for any other reason to provide in any fiscal year free public education for children who reside on Federal property which is within the school district of that agency or which, in the determination of the Commissioner, would be within that school district if it were not Federal property, there shall be deducted from any amount to which the local educational agency is otherwise entitled for that year under section 3 or 4 an amount equal to (1) the amount (if any) by which the cost to the Commissioner of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by (2) the number of such children.

(20 U.S.C. 241) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., sec. 6, 64 Stat. 1107; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong., sec. 8, 67 Stat. 535; amended Aug. 1, 1955, C. 446, P.L. 204, 84th Cong., 69 Stat. 433; amended Aug. 1, 1956, C. 852, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended May 6, 1960, P.L. 86–449, Title V, sec. 501, 74 Stat. 89; amended April 11, 1965, P.L. 89–10, Title I, secs. 2, 4(d)(2), 79 Stat. 27, 35; amended July 21, 1965, P.L. 89–77, sec. 2, 79 Stat. 243; amended Nov. 3, 1966, P.L. 89–750, Title II, sec. 204, 80 Stat. 1212; subsection (g) repealed April 13, 1970, P.L. 91–230, Title IV, sec. 401(f)(1) and superseded by sec. 422 of P.L. 90–247, Title IV, as amended (20 U.S.C. 1232a).

ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

SEC. 7. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to July 1, 1978, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to July 1, 1978, as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, and

(4) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational

agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate: *Provided*, That nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction,

the Commissioner may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a five-fiscal-year period beginning with the fiscal year in which it is determined pursuant to clause (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of clause (4) of this subsection. The amount, if any, so provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 per centum, 50 per centum, and 25 per centum, respectively, of the amount so provided for the first fiscal year following such determination.

(b) In addition to and apart from the funds provided under subsection (a), the Commissioner is authorized to provide to such agency an amount which he determines to be necessary to replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

(c) There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner is authorized to expend (without regard for subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

(1) be reported by the Commissioner to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate within thirty days of the expenditure;

(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate with-

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in the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(d) No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with the regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications.

(e) Amounts paid by the Commissioner to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(20 U.S.C. 241-1) Enacted Nov. 1, 1965, P.L. 89-313, sec. 2, 79 Stat. 1159; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 218, 81 Stat. 811; amended April 13, 1970, P.L. 91-230, Title II, sec. 201(c), 84 Stat. 154; amended August 21, 1974, P.L. 93-380, sec. 303(a)(3), 88 Stat. 522.

TITLE II—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

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(NOTE.—This title was added by Title I of the Elementary and Secondary Education Act of 1965, and is cited as such; see page 57.)

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

SHORT TITLE

SEC. 301. This title may be cited as the "Indian Elementary and Secondary School Assistance Act."

Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

DECLARATION OF POLICY

SEC. 302. (a) In recognition of the special educational needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

(b) The Commissioner shall, in order to effectuate the policy set forth in subsection (a), carry out a program of making grants to local educational agencies which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title.

(20 U.S.C. 241aa) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

GRANTS TO LOCAL EDUCATIONAL AGENCIES

SEC. 303. (a)(1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to July 1, 1978, the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(2)(A) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (i) the average per pupil expenditure for such agency (as determined under subparagraph (C)) multiplied by (ii) the sum of the number of children determined under paragraph (1).

(B) A local educational agency shall not be entitled to receive a grant under this title for any fiscal year unless the number of children under this subsection, with respect to such agency, is at least ten or constitutes at least 50 per centum of its total enrollment. The requirements of this subparagraph shall not apply to any such agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

(b) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to provide financial assistance to schools on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

(20 U.S.C. 241bb) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 335; amended August 21, 1974, P.L. 93-380, sec. 631(b), 88 Stat. 585.

USES OF FEDERAL FUNDS

SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational needs of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational needs of Indian children.

(20 U.S.C. 241cc) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 335, 336.

APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

SEC. 305. (a) A grant under this title, except as provided in section 303(b), may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 304, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such record and for affording such access thereto as the Com-

missioner may find necessary to assure the correctness and verification of such reports.

(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

"(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

(C) sets for such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2) (B) (ii).

(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

(20 U.S.C. 241dd) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 336, 337.

PAYMENTS

SEC. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount expended by such agency in carrying out activities under such application.

(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency

finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with repect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

(20 U.S.C. 241ee) Enacted June 23, 1972, P.L. 92-318, sec. 141, 86 Stat. 337.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

SEC. 307. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 306(a) and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expend under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local education agency if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a), which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a), exceeds its entitlement under section 303.

(20 U.S.C. 241ff) Enacted June 23, 1972, P.L. 92-318, sec. 141, 86 Stat. 337, 338.

TITLE IV—GENERAL PROVISIONS

ADMINISTRATION

SEC. 401.[1]

(a) (Repealed).

(b) The Commissioner shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

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[1] Title IV and section 401 of the Act of Sept. 30, 1950, P.L. 81-874. References in this title to Title I of the Elementary and Secondary Education Act of 1965, are to its original designation on enactment, "Title II" of Public Law 81-874.

(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

(20 U.S.C. 242) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., Title III, sec. 301, formerly sec. 7, 64 Stat. 1107; redesignated April 11, 1965, P.L. 80-10 Title I, sec. 3(c)(1), 79 Stat. 35; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 205, 80 Stat. 1212; subsection (a) repeaed April 13, 1970, P.L. 91-230, Title IV, sec. 401(f)(1) and superseded by sec. 422 of P.L. 90-247, Title IV, as amended (20 U.S.C. 1232a); redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

SEC. 402. (a) In carrying out his functions under this Act, the Commissioner is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and, when he deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 6 of making arrangements for providing free public education. Payment to cover the cost of such utilization or of carrying out such delegated function shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Commissioner for information he may require in carrying out the purposes of title I.

(c) Such portion of the appropriations of any other department or agency for the fiscal year ending June 30, 1951, as the Director of the Bureau of the Budget determines to be available for the same purposes as title I, shall, except to the extent necessary to carry out during such year contracts made prior to the enactment of title I, be transferred to the Commissioner for use by him in carrying out such purposes.

(d) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local educational agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the availability of appropriations for the maintenance and operation of school facilities (1) on Federal property under the control of the Atomic Energy Commission or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended, or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U.S.C., sec. 452).

(20 U.S.C. 243) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., Title III, sec. 302, formerly sec. 8, 64 Stat. 1108; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong., sec. 9, 67 Stat. 536; amended Aug. 4, 1955, C. 543, C. 11, P.L. 221, 84th Cong., sec. 202, 69 Stat. 485; amended Aug. 12, 1955, C. 868, P.L. 382, 84th Cong., sec. 1, 69 Stat. 713; amended Aug. 3 ,1956, C. 915, P.L. 949, 84th Cong., Title II,

sec. 210, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 204, 72 Stat. 560; redesignated, and amended April 11, 1965, P.L. 89-10, Title I, sec. 3(c), 79 Stat. 35; amended April 13, 1970, P.L. 91-230, Title IV, sec. 401(c), 84 Stat. 173. Repealed provision superseded by sec. 411 of P.L. 91-247, Title IV, as amended (20 U.S.C. 1231(a)); redesignated June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

DEFINITIONS

Sec. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivison of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal service. Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project.

(2) The term "child" except as used in title II, means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that for the purposes of title II such term does not include any education provided beyond grade 12.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruc-

tion, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title II of this Act or title II or III of the Elementary and Secondary Education Act of 1965.

(6)(A) For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands.

(9) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 or this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment

for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture. printed, published, and audio-visual instructional materials, and books. periodicals, documents, and other related materials.

(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(20 U.S.C. 244) Enacted Sept. 30, 1950, C. 1124, P.L. 874, 81st Cong., Title III, sec. 303, formerly sec. 9, 64 Stat. 1108; amended Aug. 8, 1953, C. 402, P.L. 248, 83d Cong. sec. 10, 67 Stat. 536; amended Aug. 1, 1956, P.L. 896, 84th Cong., sec. 10, 70 Stat. 909; amended Aug. 3, 1956, C. 915, P.L. 949, 84th Cong., Title II, sec. 211, 70 Stat. 972; amended Aug. 12, 1958, P.L. 85-620, Title II, sec. 205, 72 Stat. 560; amended June 25, 1959, P.L. 86-70, sec. 18(d)(4), 73 Stat. 145; amended July 12, 1960, P.L. 86-624, sec. 14(d)(4), 74 Stat. 414; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1102(b), 78 Stat. 1109; redesignated and amended April 11, 1965, P.L. 89-10, Title I, secs. 3(c)(1), 4(a)-(c), (d)(1), (e), 79 Stat. 35; amended Nov. 1, 1965, P.L. 89-313, sec. 6(c), 79 Stat. 1162; amended Nov. 3, 1966, P.L. 89-750, Title I, sec. 117(a)(1), (b) 80 Stat. 1198, 1199. Title II, sec. 206, 80 Stat. 1213; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 201, 81 Stat. 806; amended Apr. 13, 1970, P.L. 91-230, Title II, sec. 203(b), 84 Stat. 156. Amendments effective after June 30, 1970; redesignated June 23, 1972, P.L. 92-318 sec. 411, 86 Stat. 334; amended August 21, 1974, P.L. 93-380, sec. 304(d(1), 88 Stat. 523.

SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

(P.L. 815, 81st Congress)

AN ACT Relating to the construction of school facilities in areas affected by Federal activities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE AND APPROPRIATION

SECTION 1. The purpose of this Act is to provide assistance for the construction of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and each fiscal year thereafter, such sums as the Congress may determine to be necessary for such purpose. Sums so appropriated, other than sums appropriated for administration, shall remain available until expended.

(20 U.S.C. 631) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522 as Title III, sec. 301, P.L. 815, 1st Cong. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 548.

PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS

SEC. 2. For each fiscal year the Commissioner shall determine the portion of the funds appropriated pursuant to section 1 which shall be available for carrying out the provisions of sections 9 and 10. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6.

(20 U.S.C. 632) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522 as Title III, sec. 302, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 548.

ESTABLISHMENT OF PRIORITIES

SEC. 3. The Commissioner shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) shall be not later than June 30, 1978. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act, and remaining available on an such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of the preceding sentence.

(20 U.S.C. 633) Similar provisions enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522 as Title III, sec. 303, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85–620, Title 1, sec. 101, 72 Stat. 548; amended Oct. 3, 1961, P.L. 87–344, Title I, sec. 101(a), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88–210, Title III, sec. 301(a), formerly sec. 301(a), 77 Stat. 419; amended Oct [illegible]4, P.L. 88–665, Title XI, sec. 1101(a), 78 Stat. 1109; amended Nov. 3, 1[illegible]50, Title II, sec. 221, 80 Stat. 1213; amended Jan. 2, 1968, P.L. 90–2[illegible] sec. 301(d)(1), 81 Stat. 813; redesignated Oct. 16, 1968, P.L. 90–576, Title [illegible] sec. 101(a)(1), 82 Stat. 1064; amended April 13, 1970, P.L. 91–230, Title II, sec. 201(a)(1), 84 Stat. 154, 156; amended August 21, 1974, P.L. 93–380, sec. 301(a)(1), 88 Stat. 521.

FEDERAL SHARE FOR ANY PROJECT

SEC. 4. Subject to section 5 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this Act shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such agency at the close of the second year following the increase period and who will otherwise be without such facilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which (1) are built or under contract as of the date on which the Commissioner set, under section 3, the earliest date on or before which the application for such project was filed, or (2) as of the date the application for such project is approved, are included in a project the application for which has been approved under this Act.

(20 U.S.C. 634) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 522, as Title III, sec. 304, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 549; amended Nov. 3, 1966, P.L. 89–750, Title II, sec. 224, 80 Stat. 1214.

LIMITATIONS ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

SEC. 5. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this Act may not exceed the sum of the following:

(1) the estimated increase, since the base year, in the number of children residing on Federal property, multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

(2) the estimated increase, since the base year, in the number of children (A) residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), or (B) who had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949), multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

(3) the estimated increase, since the base year, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. For purposes of this paragraph, the Commissioner shall not consider as activities of the United States those activities which are carried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 15, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results directly from activities of the United States children residing on Federal property or residing with a parent employed on Federal property; and

(4) for the fiscal year ending June 30, 1967, the estimated number of children, without regard to the limitation in subsection (d), whose membership in the schools of such local educational agency resulted from a change in residence from land transferred to Mexico as part of a relocation of an international boundary of the United States, multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; but if, by reason of any other provision of law, this clause is not considered in computing the maximum payments a local educational agency may receive for the fiscal year ending June 30, 1967, the additional amount such agency would have been entitled to receive shall be added to such agency's entitlement for the first fiscal year for which funds appropriated to carry out this Act may be used for such purpose.

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the base year.

(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child, except that, notwithstanding the election of a local educational agency to have paragraph (2) apply to a child instead of paragraph (1), the determination of the maximum amount for such agency under subsection (a) shall be made without regard to such election.

(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d) is at least twenty and—

(1) in the case of paragraph (1) or (2), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least one thousand five hundred, whichever is the lesser; and

(2) In the case of paragraph (3), is—

(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

(B) at least two thousand five hundred,

whichever is the lesser: *Provided*, That no local educational agency shall be regarded as eligible under this paragraph (2) unless the Commissioner finds that the construction of additional minimum school facilities for the number of children in such increase will impose an undue financial burden on the taxing and borrowing authority of such agency.

(d) If (1) the estimated number of nonfederally connected children who will be in the membership of the schools of a local educational agency at the close of the increase period is less than (2) 106 per centum of the number of such children who were in the average daily membership of such agency during the base year, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof, except that the number of children counted for the purposes of paragraph (1) or (2) of subsection (a) shall not be reduced by more than one thousand five hundred and that the number of children counted for the purposes of paragraph (3) of subsection (a) shall not be reduced by more than two thousand five hundred. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as nonfederally connected children except children whose membership in the base year and increase period was compared in computing an increase which meets the requirements of subsection (c).

(e) Notwithstanding the provisions of subsections (c), (d), and (f) of this section, whenever and to extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this Act, the Commissioner may do any one or more of the following: (1) he may waive or reduce the minimum number requirement or any percentage requirement or requirements in subsection (c); (2) he may waive the requirement contained in the first sentence of subsection (d) or reduce the percentage specified in clause (2) of such sentence; or (3) he may waive or reduce the requirement contained in subsection (f).

(f) In determining under this section the total of the payments which may be made to a local educational agency on the basis of any application, the total number of children counted for purposes of paragraph (1), (2), or (3), as the case may be, of subsection (a) may not exceed—

(1) the number of children whose membership at the close of the increase period for the application is compared with membership in the base period for purposes of that paragraph, minus

(2) the number of such children whose membership at the close of the increase period was compared with membership in the base year for purposes of such paragraph under the last previous application, if any, of the agency on the basis of which any payment has been or may be made to that agency.

(20 U.S.C. 635) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 523, as Title III, sec. 305, P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 549; amended Nov. 1, 1965, P.L. 89-313, sec. 5, 79 Stat. 1161; amended Nov. 3, 1966, P.L. 89–750, Title II, secs. 222(a), (e), 223, 226, 227, 80 Stat. 1213–1215; amended Jan 2, 1968, P.L. 90–247, Title II, sec. 205(b), 207, 81 Stat. 809; amended April 13, 1970, P.L. 91–230, Title II, sec. 203(a)(3), 204, 84 Stat. 155, 157; amended May 21, 1970, P.L. 90–260, 84 Stat. 254; amended August 21, 1974, P.L. 93–380, sec. 302(a), 88 Stat. 521, 522.

APPLICATIONS

SEC. 6. (a) No payment may be made to any local educational agency under this Act except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him.

(b)(1) Each application by a local educational agency shall set forth the project for the construction of school facilities for such agency with respect to which it is filed, and shall contain or be supported by—

(A) a description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as may reasonably be required by the Commissioner;

(B) assurance that such agency has or will have title to the site, or the right to construct upon such site school facilities as specified in the application and to maintain such school facilities on such site for a period of not less than twenty years after the completion of the construction;

(C) assurance that such agency has legal authority to undertake the construction of the project and to finance any non-Federal share of the cost thereof as proposed, and assurance that adequate funds to defray any such non-Federal share will be available when needed;

(D) assurance that such agency will cause work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence;

(F) assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this Act on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as they are available to other children in such school district; and

(G) assurance that such agency will from time to time prior to the completion of the project submit such report relating to the project as the Commissioner may reasonably require.

(2) The Commissioner shall approve any application if he finds (A) that the requirements of paragraph (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 4 and 5, (B) after consultation with the State and local educational agencies, that the project is not inconsistent with overall State plans for the construction of school facilities, and (C) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which

Federal funds have not already been obligated and applications for which, under section 3, have a higher priority: *Provided*, That the Commissioner may approve any application for payments under this Act at any time after it is filed and before any priority is established with respect thereto under section 3 if he determines that—

(i) on the basis of information in his possession, it is likely that the urgency of the need of the local educational agency is such that it would have a priority under section 3 which would qualify it for payments under this Act when such priorities are established, and

(ii) the number of children in the increase under section 5(a) is in large measure attributable to children who reside or will reside in housing newly constructed on Federal property.

(c) No application under this Act shall be disapproved in whole or in part until the Commissioner of Education has afforded the local educational agency reasonable notice and opportunity for hearing.

(20 U.S.C. 636) Provisions similar in part enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 524, as Title III, sec. 303 of P.L. 815 81st Cong., Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 551, as sec. 6, P.L. 815, 81st Cong.; subsection (b)(1)(E) repealed April 13, 1970, P.L. 91–230, Title IV, sec. 401(g)(4) and superseded by sec. 423 of P.L. 90–247, Title IV, as amended (20 U.S.C. 1232b).

PAYMENTS

SEC. 7. (a) Upon approving the application of any local educational agency under section 6, the Commissioner of Education shall pay to such agency an amount equal to 10 per centum of the Federal share of the cost of the project. After final drawings and specifications have been approved by the Commissioner of Education and the construction contract has been entered into, the Commissioner shall, in accordance with regulations prescribed by him and at such times and in such installments as may be reasonable, pay to such agency the remainder of the Federal share of the cost of the project.

(b) Any funds paid to a local educational agency under this Act and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

(20 U.S.C. 637) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 525, as Title III, sec. 307 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 552, as sec. 7, P.L. 815, 81st Cong.

ADDITIONAL PAYMENTS

SEC. 8. Not to exceed 10 per centum of the sums appropriated pursuant to this Act for any fiscal year (exclusive of any sums appropriated for administration) may be used by the Commissioner, under regulations prescribed by him, to make grants to local educational agencies where (1) the application of such agencies would be approved under this Act but for the agencies' inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications, or (2) although the applications of such agencies have been approved, the projects covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work on the projects or the agencies' ability to finance the non-Federal share of the cost of the projects. Such grants shall be in addition to the payments otherwise provided under this Act, shall be made to those local educational agencies whose need for additional aid is the most urgent and acute, and insofar as practicable shall be made in the same manner and upon the same terms and conditions as such other payments.

(20 U.S.C. 638) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 525, as Title III, sec. 308(a), P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 552, as sec. 8 of P.L. 815, 81st Cong.

WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

SEC. 9. Notwithstanding the preceding provisions of this Act, whenever the Commissioner determines that the membership of some or all of the children. who may be included in computing under section 5 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, the Commissioner may make available to such agency such temporary school facilities as may be necessary to take care of such membership; or he may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of this Act) to such agency for use in constructing school facilities an amount equal to the amount which he estimates would be necessary to make available such temporary facilities. In no case, however, may the amount so paid exceed the cost, in the school district of such agency of constructing minimum school facilities for such children. The Commissioner may transfer to such agency or its successor all the right, title, and interest of the United States in and to any temporary facilities made available to such agency under this section (or section 309 of this Act as in effect January 1, 1958); any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

(20 U.S.C. 639) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 525, as Title III, sec. 309 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 553, as sec. 9 of P.L. 815, 81st Cong.

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 10. (a) In the case of children who it is estimated by the Commissioner in any fiscal year will reside on Federal property at the end of the next fiscal year—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which the Commissioner makes arrangements under this section for constructing or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, or the Virgin Islands, he may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if the Commissioner determines, after consultation with the appropriate State educational agency, (1) that the construction or provision of such facilities is appropriate to carry out the purposes of this Act, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

(b) When the Commissioner determines it is in the interest of the Federal Government to do so, he may transfer to the appropriate local educational agency all the right, title, and interest of the United States in and to any facilities provided under this section (or sections 204 or 310 of this Act as in effect January 1, 1958). Any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

(c) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of section 5 of this Act.

(20 U.S.C. 640) Similar provision enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 526, as Title III, sec. 310 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 553 as sec. 10 of P.L. 815, 81st Cong.; amended May 6, 1960, P.L. 86–449, Title V, sec. 502, 74 Stat. 89; amended July 21, 1965, P.L. 89–77, sec. 1, 79 Stat. 243; amended Nov. 3, 1966, P.L. 89–750, Title II, secs. 228, 229, 80 Stat. 1215; amended Jan. 2, 1968, P.L. 90–247, Title II, sec. 202, 81 Stat. 807.

WITHHOLDING OF PAYMENTS

Sec. 11. (a) Whenever the Commissioner of Education, after reasonable notice and opportunity for hearing to a local educational agency, finds (1) that there is a substantial failure to comply with the drawings and specifications for the project, (2) that any funds paid to a local educational agency under this Act have been diverted from the purposes for which paid, or (3) that any assurance given in an application is not being or cannot be carried out, the Commissioner may forthwith notify such agency that no further payment will be made under this Act with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

(b) The final refusal of the Commissioner to approve part or all of any application under this Act, and the Commissioner's final action under subsection (a) of this section, shall be subject to judicial review on the record, in the United States court of appeals for the circuit in which the local educational agency is located, in accordance with the provisions of the Administrative Procedure Act.

(20 U.S.C. 641) Provision similar to subsection (a) enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 526 as Title III, sec. 311 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 554 as sec. 11 of P.L. 815, 81st Cong.

ADMINISTRATION

Sec. 12.

(b) The Commissioner of Education shall administer this Act, and he may make such regulations and perform such other functions as he finds necesary to carry out the provisions of this Act.

(c) The Commisioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

(20 U.S.C. 642) Similar provision enacted Sept. 23, 1950, P.L. 815, 81st Cong., Title II, sec. 208, 64 Stat. 975. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 554, as sec. 12 of P.L. 815, 81st Cong.; subsections (a) and (d) repealed April 13, 1970, P.L. 91-230, Title IV, sec. 401 (f)(3) and (g)(4), 84 Stat. 173, 174, and superseded by secs. 422 and 423 of P.L. 90-247, as amended (20 U.S.C. 1232a, 1232b).

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

Sec. 13.

(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may give rise to a need for the construction of school facilities, shall to the maximum extent practicable, comply with requests of the Commissioner for information he may require in carrying out the purposes of this Act.

(c) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purpose as this Act; except that nothing in this subsection shall affect the availability of appropriations authorized, prior to September 23, 1950, for the construction of school facilities to be attended by Indian children, or appropriations (1) for the construction of school facilities on Federal property under the control of the Atomic Energy Commission, (2) for the construction of school facilities which are to be federally operated for Indian children, or (3) for the construction of school facilities under the Alaska Public Works Act, approved August 24, 1949.

(20 U.S.C. 643) Similar provisions enacted Sept. 23, 1950, P.L. 815, 81st Cong., Title I, sec. 105, and Title II, sec. 209, 64 Stat. 969, 975. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 554, as sec. 13 of P.L. 815, 81st Cong.; subsection (a) repealed April 13, 1970, P.L. 91-230, Title IV, sec. 401(c)(3), 84 Stat. 173, and superseded by sec. 411, P.L. 90-247, Title IV, as amended (20 U.S.C. 1231).

SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY AFFECTED AREAS

SEC. 14. (a) If the Commissioner determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds 100;

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

(3) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance available for the purpose; and

(4) such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

he may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commisisoner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(b) If the Commissioner determines with respect to any local educational agency that—

(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds one hundred; and

(2) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

he may, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest, provide the additional assistance necessary to enable such agency to provide the minimum school facilities required for free public education of children in the membership of the schools of such agency who reside on Indian lands; but such additional assistance may not exceed the portion of the cost of constructing such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection "Indian lands" means Indian reservations or other real property referred to in the second sentence of section 15(1).

(d)[1] There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.

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[1] Apparent error in P.L. 91-230, sec. 205. Subsection (c) should precede subsection (d) in this section.

(c) If the Commissioner determines with respect to any local educational agency—

(1) that (A) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide, free public education for children who are inadequately housed by minimum school facilities and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and (B) the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, and (C) Federal property constitutes a substantial part of the school district of such agency,

(2) that the immunity of such Federal property from taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities,

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance for the purpose, and

(4) that such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

he may provide the assistance necessary to enable such agency to provide minimum school facilities for children in the membership of the schools of such agency whom the Commissioner finds to be inadequately housed, upon such terms and conditions, and in such amounts (subject to the applicable provisions of this section) as the Commissioner may consider to be in the public interest. Such assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this subsection.

(e) No payment may be made to any local educational agency under subsection (a) or (b) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility. No payment may be made under subsection (a) or (b) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(f) Amounts paid by the Commissioner to local educational agencies under subsection (a) or (b) may be paid in advance of, or by way of reimbursement for, work performed or purchases made pursuant to the agreement with the Commissioner under this section, and may be paid in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(g) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to determinations made under this section.

(h) It is hereby declared to be the policy of the Congress that the provision of assistance pursuant to subsections (a) and (b) of this section shall be given a priority at least equal to that given to payments made pursuant to section 10 of this Act.

(20 U.S.C. 644) Similar provisions enacted Aug. 8, 1953, P.L. 246, 83d Cong., sec. 1, 67 Stat. 526, as Title IV, sec. 401 of P.L. 815, 81st Cong. Enacted Aug. 12, 1958, P.L. 85-620, Title I, sec. 101, 72 Stat. 555, as sec. 14 of P.L. 815, 81st Cong.; amended Oct. 3, 1961, P.L. 87-344, Title I, sec. 101(b), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88-210, Title I, sec. 301(b), formerly sec. 31(b), 77 Stat. 419; amended Oct. 16, 1964, P.L. 88-665, Title XI, sec. 1101(b), 78 Stat. 1109; amended Nov. 3, 1966, P.L. 89-750, Title II, sec. 225, 80 Stat. 1214; amended Jan. 2, 1968, P.L. 90-247, Title II, sec. 203, 81 Stat. 807; redesignated Oct. 16, 1968, P.L. 90-576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended April 13, 1970, P.L. 91-230, Title II, secs. 205(a) and 206, 84 Stat. 158, 159.

DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Except for the purposes of section 10, such term includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this para-

graph, such term does not include (A) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers and (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services.

(2) The term "child" means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(5) The membership of schools shall be determined in accordance with State law or, in the absence of State law governing such a determination, in accordance with regulations of the Commissioner; except that, notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the membership of such child, shall be held and considered—

(A) if the two local educational agencies concerned so agree, and if such agreement is approved by the Commissioner, as membership of a school of the local educational agency receiving such tuition payment;

(B) in the absence of any such approved agreement, as membership of a school of the local educational agency so making of contracting to make such tuition payment.

In any determination of membership of schools, children who are not provided free public education (as defined in paragraph (4)) shall not be counted.

(6) The average per pupil cost of constructing minimum school facilities in the State in which the school district of a local educational agency is situated shall be determined by the Commissioner of Education on the basis of the contract cost per square food under contracts for the construction of school facilities (exclusive of costs of site improvements, equipment and architectural, engineering, and legal fees) entered into in the State for the second year of the four year increase period designated in the application, increased by a percentage estimated by the Commissioner to represent additional costs for site improvements, equipment, and architectural, engineering, and legal fees, and multiplied by a factor estimated by the Commissioner to represent the area needed per pupil in minimum school facilities. If the Commissioner finds that the information available for the State concerned for such preceding fiscal year is inadequate or not sufficiently representative, he shall determine such cost on the basis of such information as he has available and after consultation with the State educational agency. The cost of constructing minimum school facilities in the school district of a local educational agency shall be determined by the Commissioner, after consultation with the State and local educational agencies, on the basis of such information as

may be contained in the application of such local educational agency and such other information as he may obtain.

(7) Estimates of membership, and all other determinations with respect to eligibility and maximum amount of payment, shall be made as of the time of the approval of the application for which made, and shall be made on the basis of the best information available at the time of such approval.

(8) The terms "construct", "constructing", and "construction" include the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(9) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contents, or games or other events for which admission is to be charged to the general public. Except as used in sections 9 and 10, such term does not include interests in land and off-site improvements.

(10) Whether or not school facilities are minimum school facilities shall be determined by the Commissioner, after consultation with the State and local educational agencies, in accordance with regulations prescribed by him. Such regulations shall (A) require the local educational agency concerned to give due consideration to excellence of architecture and design, (B) provide that no facility shall be disqualified as a minimum school facility because of the inclusion of works of art in the plans therefor if the cost of such works of art does not exceed 1 per centum of the cost of the project, and (C) require compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this Act shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(11) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education or which has responsibility for the provision of such facilities.

(12) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(13) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, or Wake Island.

(14) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this Act, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5(a), the base year shall in no event be later than the regular school year 1973–1974; and

(16) The term "increase period" means the period of four consecutive regular school years immediately following such base year.

(20 U.S.C. 645) Similar provisions enacted Sept. 23, 1950, P.L. 815, 81st Cong., Title II, sec. 210, 64 Stat. 976. Enacted Aug. 12, 1958, P.L. 85–620, Title I, sec. 101, 72 Stat. 556, as sec. 15 of P.L. 815, 81st Cong.; amended June 25, 1959, P.L. 86–70, sec. 18(c), 73 Stat. 144; amended July 12, 1960, P.L. 86–624, sec. 14(c), 74 Stat. 414; amended Oct. 3, 1961, P.L. 87–344, Title I, sec. 101 (c), 75 Stat. 759; amended Dec. 18, 1963, P.L. 88–210, Title III, sec. 301(c), formerly sec. 31(c), 77 Stat. 419; amended Oct. 16, 1964, P.L. 88–665, Title XI, sec. 1101(c), (d), 78 Stat. 1109; amended Nov. 3, 1966, P.L. 89–750, Title II, secs. 222 (b), (c), (d), 230–232, 80 Stat. 1213–1216; amended Jan. 2, 1968, P.L. 90–247, Titles II, III, secs. 201, 301 (d) (2) 81 Stat. 806, 813; redesignated Oct. 16, 1968, P.L. 90–576, Title I, sec. 101(a)(1), 82 Stat. 1064; amended April 13, 1970, P.L. 91–230, Title II, secs. 201(a)(2), 203(a)(1), (2), 84 Stat. 154, 155; amended August 21, 1974, P.L. 93–380, sec. 301(a)(2), 88 Stat. 521.

SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

SEC. 16. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to July 1, 1978, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) as a result of such major disaster, (A) public elementary or secondary school facilities of such agency (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school-age) have been destroyed or seriously damaged, or (B) private elementary or secondary school facilities serving children who reside in the area

served by such agency have been destroyed and will not be replaced, thereby increasing the need of such agency for school facilities;

(4) such agency is utilizing or will utilize all State and other financial assistance available for the replacement or restoration of such school facilities;

(5) such agency does not have sufficient funds available to it from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance on such school facilities, and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, to provide the minimum school facilities needed (A) for the restoration or replacement of the school facilities of such agency so destroyed or seriously damaged or (B) to serve, in facilities of such agency, children who but for the destruction of the private facilities referred to in clause (3) (B) would be served by such private facilities; and

(6) in the case of any such major disaster, to the extent that the operation of private elementary and secondary schools in the school attendance area of the local educational agency has been disrupted or impaired by such disaster, such local educational agency has complied with the provisions of section 7(a)(4) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), with respect to provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate,

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster. In all cases determined pursuant to clause (1)(B) of this subsection, and in any other case deemed appropriate by the Commissioner, such assistance shall be in the form of a repayable advance subject to such terms and conditions as he considers to be in the public interest.

(b) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner may expend (without regard to subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds heretofore or hereafter appropriated for expenditure in accordance with other sections of this Act such sums as may be necessary for immediately providing assistance under this section, such appropriations to be reimbursed from the appropriations authorized by this subsection when made.

(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. No payment may be made under subsection (a) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

(d) Amounts paid by the Commissioner to local educational agencies under subsection (a) may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

(e) None of the provisions of sections 1 to 10, both inclusive, other than section 6(b)(1), shall apply with respect to this section.

(20 U.S.C. 646) Enacted Nov. 1, 1965, P.L. 89–313, sec. 1, 79 Stat. 1158; amended Jan. 2, 1968, P.L. 90–247, Title II, sec. 217, 81 Stat. 810; amended April 13, 1970, P.L. 91–230, Title II, sec. 201(c), 84 Stat. 154; amended August 21, 1974, P.L. 93–380, sec. 301(b), 88 Stat. 521; amended August 21, 1974, P.L. 93–380, sec. 302(b), 88 Stat. 522.

SPECIAL BASE CLOSING PROVISION

SEC. 17. In determining the payment to be made to a local educational agency under this Act the Commissioner shall disregard the announcement, made November 19, 1964, of a decrease in or cessation of Federal activities in certain areas, and shall carry out such Act as if such announcement had not been made.

(20 U.S.C. 647) Enacted Nov. 1, 1965, P.L. 89–313, sec. 3, 79 Stat. 1161.

Appendix 2-A

federal register

FRIDAY, DECEMBER 5, 1975

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

SCHOOL ASSISTANCE

Federally Affected Areas

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 115]

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Notice of Proposed Rulemaking

Pursuant to the authority contained in sections 2, 3, 4, 5, and 403(11) of Pub. L. 81-874 (20 U.S.C. 238, 239, 240, 244(11)), and section 305(b)(2) of Pub. L. 93-380, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 Part 115 of the Code of Federal Regulations by amending §§ 115.3, 115.11 and 115.30 and by revising subpart C to read as set forth below.

1. *Program purpose.* The purpose of sections 2, 3, 4, and 5 of Pub. L. 81-874 is to provide assistance for local educational agencies in areas affected by Federal activities. Section 2 provides for entitlements based on the acquisition by the United States of property situated within a local educational agency. Section 3 provides for establishment of basic entitlements for local educational agencies depending generally upon the number of federally-connected children in attendance at the schools of such agencies. Section 4 provides for entitlements based on sudden and substantial increases in attendance in local educational agencies as a direct result of activities of the United States (carried on either directly or through a contractor). Section 5 provides for payments to local educational agencies on the basis of entitlements under sections 2, 3, and 4 of the Act, with special provision made when there are insufficient appropriations available to pay agencies at full entitlement. Section 305(b)(2) of Pub. L. 93-380 sets forth four savings clauses designed to reduce the impact of changes in Pub. L. 81-874 entitlements for local educational agencies made by the Educational Amendments of 1974 and to offset substantial reductions in impact aid funds for those agencies affected by military base closings announced after April 16, 1973. The text of Pub. L. 81-874, as amended, together with the "savings clauses" or "hold harmless" provisions of Pub. L. 93-380, are set forth in Appendix A to the proposed rule for the convenience of the reader.

2. *Effect of Pub. L. 93-380.* (a) *Amendments to section 3.* The amendments to section 3 of Pub. L. 81-874 made by Pub. L. 93-380 (effective for fiscal year 1976 and thereafter) create subcategories for "A" and "B" category children which are used in computing various amounts to which local educational agencies are entitled, establish an increased entitlement (at a rate of 150 per cent) for any part of section 3 entitlement with respect to handicapped children or children with specific learning disabilities whose parents are on active duty in the uniformed services, and provide that, for purposes of computing entitlements, all children living on Indian lands are to be considered in the same subcategory as "A" children whose parents are in the uniformed services. The amendments exclude from consideration for entitlement children of civilians employed on Federal property in a State other than the State in which the local educational agency is located and authorize the Commissioner to make all determinations with respect to numbers of eligible children under section 3 of Pub. L. 81-874 on the basis of estimates whenever actual satisfactory data are not available. In amending the manner by which entitlements are calculated, amended section 3(d) of Pub. L. 81-874 provides for the calculation as set forth in the following table:

Category of federally connected child	Percentage of local contribution rate to be paid under—	
	Previous existing law	Public Law 93-380 amendment
A+ LEA (20 pct "A")	100	100
"A" category children (military and Indian children)	100	100
"A" category children (civilian)	100	90
"B" category (military)	50	50
"B" category (civilian in-county)	50	45
"B" category (civilian, out of county)	50	40

As regards increased entitlements owing to handicapped children of military personnel under section 3(d)(2)(C), further provision is made that these children must be in a program provided by the local educational agency which is designed to meet the special educational and related needs of such children, and that the Commissioner shall promulgate regulations to assure that the programs are of sufficient size, scope and quality to give reasonable promise of substantial progress toward meeting those needs.

(b) *Amendment to section 5.* The amendment to section 5 of Pub. L. 81-874 adopts a new method of calculating payments if appropriations for this act are insufficient to fully satisfy the amounts to which local educational agencies are entitled. The amendment also creates an exception to prohibiting States from taking Pub. L. 81-874 payments into account in determining eligibility for, or the amount of, State aid to local educational agencies for free public education, provides that payments related to children residing on, or residing with a parent employed on low-rent public housing property, are to be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low income families, and further provides that payments attributable to increased entitlements under section 3 on the basis of handicapped children of uniformed services personnel must be used for special educational programs designed to meet the special educational needs of these children. The new method of payment (controlling the distribution of funds when appropriations are insufficient to satisfy all entitlements) establishes a graduated scale of payments, which may be illustrated by the following table:

Category of children	Percentage of entitlement paid under—		Combined percentage of entitlements paid under pars. (1) and (2)
	Par. (1) of sec. 5(c)	Par. (2) of sec. 5(c)	
A+ districts (districts with more than 25 pct "A" children)	25	75	100
"A" category military and Indian children	25	65	90
"A" category civilian	25	63	88
"B" category military	25	35	60
"B" category civilian (in county)	25	32	57
"B" category civilian (out of county)	25	28	53

Further provision is made in the amendment that payments under paragraph (2) may not be made unless (a) all payments have been made under paragraph (1), and (b) all payments will be made in full under paragraph (2). The exception to the prohibition against States' consideration of Pub. L. 81-874 funds in administering State aid has been dealt with separately in the notice of proposed rulemaking published in the FEDERAL REGISTER on May 1, 1975 (40 FR 17114-19118).

(c) *Savings clauses.* (1) The first savings clause of section 305(b)(2), Pub. L. 93-380 is general in nature, except for a specific provision providing a transitional eligibility factor regarding decreases in or cessation of Federal activities. This savings clause provides that, if payments under section 3 of Pub. L. 81-874 constitute not less than 10 per cent of the current expenditures of a local educational agency for the fiscal year ending prior to June 30, 1973, the amount of the payment to that agency on the basis of its section 3 entitlement shall not be less than 90 per cent of its previous year's payment for each such year. If the Pub. L. 81-874 payments do not constitute at least 10 percent of the current expenditures of the agency, the agency is guaranteed 80 percent of its previous year's payment. This part of the first savings clause is subject, however, to special language, which requires a line item appropriation for its funding, or, in the absence of an appropriation, submission of a report to appropriate Congressional committees detailing the amounts necessary to satisfy the savings clause provisions, which shall constitute a budget estimate within the meaning of 31 U.S.C. 11(a)(5).

(2) The second savings clause in section 305(b)(2) of Pub. L. 93-380 provides a manner of phase-out of Federal assistance for local educational agencies experiencing certain decreases in attendance related to reductions in or cessa-

tions of military installations in the United States announced after April 16, 1973.

(3) The third savings clause provides that, if the number of children who reside with parents employed on Federal property in a State or in a county other than the State or county in which the school district of the agency is located constitute more than 10 percent of the total number of category "B" children in that agency, then the entitlement which that agency has for category "B" children shall not be less than 90 percent of the payment it received for those children during the preceding year. This is designed to lessen the impact of LEAs affected by the elimination of 3 entitlements based on "out-of-State" "B" children and the reduction in entitlements for "out-of-county" children.

(4) The fourth savings clause is designed to offset the reduction in payments caused by the mandated payment of entitlements for children in low-rent public housing. The Commissioner must determine the amount a school district would receive for a fiscal year on the basis of the appropriations available if no payments were made with respect to children in low-rent public housing and the amount that school district actually receives with those payments included. If the first amount is greater than the second, the school district is paid the difference. This provision also contains language concerning special appropriations like that contained in the first savings clause discussed above.

3. *Scope of proposed rules.* The proposed amendments and revisions set forth below encompass the following: minor revision of the method of computing the Federally connected ADA as set forth in the definitions section part 115 (§ 115.3(e)(f)); addition of the term "county" to the same definitions section (§ 115.3(p)); additions to subpart C relating to the special savings clauses under Pub. L. 93-380 (§ 115.27) entitlements related to handicapped children of uniformed services personnel (§ 115.28) and entitlements related to low-rent public housing children (§ 115.29); revision of sections in subpart C concerning payments under section 3 when the percentage eligibility requirement is not met (§ 115.21); entitlements under amended section 3(e) (§ 115.22); and reduction of financial assistance under section 2, 3, and 4 of the Act due to insufficient appropriations (§ 115.25). Certain sections of Part 115 are being republished herein without any major change being made other than revision of references to the Act to reflect statutory changes and renumeration of a regulatory section in one instance. These sections concern the following: final filing date for applications (§ 115.11(g)); changes in boundaries, classification, and governing authority of applicants (§ 115.20); payments under section 4(a) of the Act (§ 115.23); election under section 4(c) of the Act (§ 115.24); failure or refusal of a local educational agency to educate children living on Federal property (§ 115.26); and determination of generally comparable local educational agencies (§ 115.30(a)(10), (b)(2)(iii)). As mentioned above, the proposed regulations published herein do not treat the matter of the prohibition against States' consideration of Pub. L. 81-874 payments in the administration of State aid (section 5(d)(2) of the Act).

4. *Major amendments to regulations.* A. *Definition of "county".* The term "county" has been defined in proposed § 115.3(p) to include municipalities and other political subdivisions of a State that are not considered part of a county by the Secretary of Commerce in compiling data on counties. This extension of the definition set forth in the Act in section 403(11) was deemed necessary in light of unusual circumstances relating to some school districts which are not situated jurisdictionally within a county but lie solely within the boundaries of a jurisdiction separate from any county. The need to establish a rule for such cases is occasioned by amendments to sections 3 (see sections 3(b)(2) and 3(d)(1)(B)(iv) and (v)) and 5 (see section 5(c)(2)(E) and (F)) of Pub. L. 81-874 which make distinctions in entitlement and payment on the basis of "B" children residing with a parent employed on Federal property either within or without the same county in which the school district of attendance is situated. Thus, a child who attended school in a municipality not considered part of a county by the Secretary of Commerce and whose parent was employed on Federal property outside the municipality would be considered as a "B out-of-county" for purposes of computing entitlement and payment under sections 3 and 5.

B. *Continuation of eligibility when 3 per centum requirement not met.* Under section 3(c)(1) of Pub. L. 81-874 a local educational agency will not be eligible to receive a payment unless the number of children determined under sections 3(a) and 3(b) equals at least: (1) four hundred, or (2) 3 per centum of the total average daily attendance figure for the agency during the year of application for assistance. Under section 3(c)(2)(A)(ii) of the Act, the agency will be permitted to continue to be eligible for an entitlement for two succeeding fiscal years if it fails to meet the 3 per centum requirement during any year after it had previously met the requirement. Proposed § 115.21 sets forth the statutory basis for the application of section 3(c)(2)(A)(ii), specifies a limitation on the entitlement computation for the second year of continued eligibility under that section, and provides for the application of the section to a situation where an applicant agency was not in existence either one or both of the two fiscal years prior to its application, or where an applicant with a timely filed application is absorbed by a successor local educational agency in a school district reorganization. Furthermore, proposed § 115.21(e) references section 305(b)(2)(A) of Pub. L. 93-380 as governing the case of any local educational agency which met the 3 percent requirement prior to July 1, 1975 but which fails to meet it prior to July 1, 1977. (This section of Pub. L. 93-380 is dealt with in further detail below in proposed § 115.27(b)).

C. *Section 3(e), Pub. L. 81-874.* Section 3(e) of Pub. L. 81-874 provides for adjustments to entitlements for reductions in number of "A" or "B" children resulting from a decrease or cessation of Federal activities within the State in which the local educational agency is located. Section 3(e) further requires that: (1) The number of "A" and "B" children for the school district be more than 90 percent of the number of these children for the school district during the previous fiscal year; and (2) the decrease or cessation of Federal activities result in a substantial decrease in the number of "A" and "B" children with respect to the school district. Proposed § 115.22 sets forth the basic provisions of section 3(e) and establishes how the Commissioner shall make determinations under these provisions. In proposed § 115.22(b)(1), a procedure is set forth calculating whether the number of "A" and "B" children is less than 90 percent of the previous year's number. In proposed § 115(b)(2), the term "substantial decrease" is deemed to be 3 percent of the current year's total ADA and at least 10 in number. This is consistent with the interpretation given the same term under the regulation previously in effect relating to the same situation. Proposed § 115.22(b)(3) would require that an applicant school district identify the particular decrease or cessation of Federal activity which occurred within the State in which the district is situated and which resulted in the "substantial decrease" in the number of "A" and "B" children. Furthermore, the school district must obtain certification of this decrease or cessation from the Federal agency involved in the activity. Thus, not only would a school district have to experience a reduction in number of more than 10 percent of "A" and "B" children but it would have to substantiate that, of the number in reduction, a number equal to at least 10 children and 3 percent of the total current ADA resulted from an identifiable decrease or cessation of a Federal activity within the same State.

D. *Reduced payments because of insufficient appropriations.* As mentioned above, section 5 of Pub. L. 81-874 sets forth a schedule of payments when appropriations are insufficient to pay all entitlements in full. Proposed § 115.25(a) references this section of the Act and describes the procedure determining payments in such a circumstance. Proposed § 115.25(b) provides that, where part of an entitlement is attributable to low-rent public housing children, that part shall not be paid under section 5(c)(2) of the Act. This special treatment is made necessary by the provision of section 5(e) of the Act, which requires a determination by the Commissioner of that part of an entitlement attributable to the number of "A" or "B" low-rent public housing children, and which further provides that that part of the entitlement for a local educational agency shall not be allocated or paid under section 5(c)(2) of the Act. In analyzing the application of section 5(e) to section 5(c)(2), a question arose as to how entitlements related to an "A" child whose "A" status was due in part to residing in or residing with a parent employed on low-rent public housing and in part to some other subcategory, were to be treated. Two possible interpretations were considered. The first would have treated that part of any entitlements attributable in whole or in part to low-rent public housing children as entirely attributable to such a classification. Under this interpretation, no part of any entitlement which was in any manner so attributable would be allocated or paid under section 5(c)(2). The second interpretation considered was that, since the part of an "A" low-rent public housing child could be viewed as generally representing half of the "A" status entitlement, it was that part of the entitlement which Congress sought to have excluded from payment under section 5(c)(2). The first interpretation was chosen because it is believed to most nearly reflect the wording of section 5(e) as well as to fulfill the Congressional intent that any part of an entitlement connected to low-rent public housing not be paid under section 5(c)(2).

E. *Savings clauses under Pub. L. 93-380.* As indicated above there are four special savings clauses affecting Pub. L. 81-874 contained in Pub. L. 93-380. These savings clauses are not part of Pub. L. 81-874 but have a direct bearing on the entitlements and payments of local educational agencies under that Act. Proposed § 115.27 references these savings clauses and sets forth further provisions deemed necessary to implement and clarify them. Proposed § 115.27(b) deals with section 305(b)(2)(A) of Pub. L. 93-380 and provides: A local educational agency must be eligible for section 3 Pub. L. 81-874 entitlement in order to be eligible for payment under this savings clause (§ 115.27(b)(1)); a local educational agency which fails to meet the 3 per centum requirement for eligibility for an entitlement, but whose eligibility is continued by the operation of the second sentence of section 305(b)(2)(A)(i) of Pub. L. 93-380, shall be eligible for a payment under this savings clause but shall be subject nevertheless to the restriction on the payment for the second year of continued eligibility contained therein (§ 115.27(b)(2)); and payments made on the basis of the second sentence of section 305(b)(2)(A)(i) are to be paid from regular appropriations (§ 115.27(b)(3)). Proposed § 115.27(c) references section 305(b)(2)(B) of Pub. L. 93-380 and sets forth a method of computing the actual decrease in number of federally-connected children for this clause (§ 115.27(c)(1)). This repeats § 115.27(b) currently in effect and adds a clarifying provision as to how to apply the resulting number under the statutory requirements. It is further provided that there must be a direct relationship between the decrease in the number of federally-connected children and an announced decrease or cessation of Federal activities on a military installation in the same State in which the applicant is situated. In this regard, it is provided that the announcement of decrease or cessation must be an official announcement or order by the Federal agency engaged in the activity thereby affected and that, for the purposes of this clause, "military installation" means a facility, camp, or base operated by or under the jurisdiction of one of the branches of the Armed Forces (§ 115.27(b)(6)).

Proposed § 115.27(d) references section 305(b)(2)(C) of Pub. L. 93-380 and sets forth a method for determining whether the number of "out of county" and "out of State" "B" children is at least 10 per centum of the total number of "B" children. In proposed § 115.27(e) relating to section 305(b)(2)(D) of Pub. L. 93-380, it is provided that the Commissioner may use estimated entitlements and payments for calculating the amount of appropriations that would be required to satisfy this savings clause.

F. *Handicapped children of uniformed services personnel.* Proposed § 115.28 sets forth provisions affecting the determinations for increased entitlements under section 3(d)(2)(C) of the Act and the use of funds attributable to payments thereunder. Certain terms such as "handicapped children" and "children with specific learning disabilities" are defined in proposed § 115.28(a). Eligibility requirements for counting children for these purposes are that such children must have a parent on active duty in the uniformed services and must be receiving services suited to their educational and related needs on the basis of the statutory requirements for these services (§ 115.28(c)). It is further provided in proposed § 115.28(d) that the furnishing of these services must result in the school district spending more money for handicapped children and children with specific learning disabilities than the average amount expended for non-handicapped children and spending in excess in an amount equal at least to the amount provided by the operation of this section. In considering how much is expended by a school district on these programs, all amounts, no matter what the governmental source, are to be counted. Thus, for the purposes of this proposed regulation, other Federal funds may be considered in computing average per pupil expenditures. However, this would not permit a reduction in State or local effort for handicapped children where otherwise prohibited by law. Furthermore, payments under Pub. L. 81-874 attributable to this special increase to entitlements may not be taken into consideration by a State in determining eligibility for or the amount of State aid since they are "categorical" and not general aid funds.

The proposed regulation states that, in determining whether programs for children counted under this provision would meet the statutory requirement of being of "sufficient size, scope and quality as to give reasonable promise of substantial progress toward meeting the special educational and related needs of such children," the standards of the State in which the local educational agency is situated would apply (§ 115.28(f)(1)). However, these State standards must conform to the additional State plan policies and procedures established under section 613(b) of the Education of the Handicapped Act (§ 115.28(f)). The Office of Education feels that it should not require more of programs for these children than is required under other federally-assisted programs for such children. Applicants seeking to count children under this provision would be required under proposed § 115.28(f) to submit an assurance that such children were receiving appropriate services and this assurance would have to be certified by the division in the State educational agency charged with the supervision of the programs under local auspices. Thus, in certifying programs which would provide services for children counted under this provision of Pub. L. 81-874, each State shall apply its own standards for the programs as long as the State has complied with the requirements of section 613(b) of the Education of the Handicapped Act.

G. *Low-rent public housing.* Proposed § 115.29 sets forth requirements to ensure that payments under Pub. L. 81-874 based on the number of children residing on, or residing with a parent employed on, low-rent public housing, as determined under section 5(e) of such Act, are used for special programs and projects designed to meet the special educational needs of educationally deprived children from low income families, as required under such section.

In proposed § 115.29(b) an order of priority for the use of such funds is established. Payments under this provision are to be used for Title I, ESEA, programs and projects that would be diminished or discontinued because of the new Title I allocation formula adopted under Pub. L. 93-380, where it is practicable to do so, or to provide Title I programs and projects in eligible Title I areas which otherwise would be unfunded. Second, if the above needs have been fully met, the funds may be used to provide Title I type programs for educationally deprived children from low-income families in attendance areas of the local educational agency that do not meet the eligibility requirements under Title I, ESEA. The use of these funds to further Title I purposes is prescribed in the legislative history of the provisions (see Sen. Rep. 93-1026, 162 (1974)).

In administering the grant of funds under section 5(e), the Office of Education plans to utilize the personnel and organizational structure already involved in the provision of Title I type services in order to avoid a duplication of administrative functions. However, the actual award of grant funds will be the responsibility of the Division of School Assistance in Federally Affected Areas. A local educational agency applicant will be required to make application for the release of the funds through the State educational agency and will be required to provide the Office of Education with a certification from the State agency that the use of section 5(e) funds by the applicant would conform to both Pub. L. 81-874 and applicable Title I requirements. The scope of "applicable Title I requirements" has been left unspecified in the proposed regulation (§ 115.29(d)). In the final regulation it is anticipated that more specific mention of non-applicable sections of the statute and regulations may be made. (For example, proposed sections 116.4(b), 116.17-116.20, 116.36(a), 116a.3-116a.10, 116a.12-116a.14 and 116a.9(a) as contained in the Notice of Proposed Rulemaking for Title I, ESEA, published in the FEDERAL REGISTER on March 11, 1975 at 40 FR 11472 have been considered as possibly inappropriate. Interested parties should address themselves to the Notice of Proposed Rulemaking in considering the appropriateness of the aforementioned regulatory sections and any other Title I regulations as requirements pertinent to the use of these Pub. L. 81-874 funds.) Proposed § 115.29(e)(1) would provide that the applicant must obtain and submit to the Commissioner an assurance from the certifying State agency that any nonconforming use of the funds by an applicant of which the State has knowledge will be reported to the Commissioner, who shall take such action as is deemed appropriate. Since it is expected that almost all of these funds will be used in Title I eligible areas, the State, in monitoring Title I programs and projects, will be in position to observe the use of these funds in conjunction with Title I programs and projects. Similarly, in conducting periodic Title I audits, the Department of Health, Education and Welfare would examine the use of these funds in such Title I areas in addition to any specific audits focused on section 5(e) funds. Comments are particularly invited on the role of the State educational agency in the monitoring of the use of these funds and the manner in which that role could be accomplished. Two possible ways State monitoring could be accomplished that have been suggested are through the regular State Title I monitoring component or by means of special service contracts between the Office of Education and the State agencies.

A further condition regarding the use of the section 5(e) funds is that these funds must remain identifiable for accountability purposes (§ 115.29(c)). Finally, States will not be permitted to take these Pub. L. 81-874 funds into consideration in any determination of State aid for local educational agencies receiving such funds (§ 115.29(f)).

5. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(A)) a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of each section. On occasion, a citation appears at the end of a subdivision that appears in that section above the citation. When the citation appears only at the end of the section, it applies to the entire section.

6. *Opportunity for public comment.* Parties interested in commenting on the published materials should submit comments to the Office of Education, 400 Maryland Ave. SW., Room 2107a, Washington, D.C. 20202, Attention: Mr. William Stormer. All relevant material received on or before January 5, 1976 will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 8:30 a.m. and 4 p.m. Monday through Friday of each week.

(Catalog of Federal Domestic Assistance No. 13.478, School Assistance in Federally Affected Areas—Maintenance and Operation)

Dated: October 8, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: November 21, 1975.

MARJORIE LYNCH,
Acting Secretary of Health, Education, and Welfare.

Part 115 of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 115.3 is amended by revising paragraphs (e) and (f) and by adding paragraph (p) to read as follows:

§ 115.3 Definitions.

* * * * *

(e) "Average daily attendance of federally-connected pupils" in each pertinent category of federally-connected children (sections 3(a), 3(b), and 4(a)) means the number determined in accordance with section 403(10) of the Act in the manner described in this paragraph. At the option of the applicant, a second membership count may be made as set forth in paragraph (f) of this section.

(1) At some specific date not earlier than the fourth day of the legal school session of the regular school year and prior to the cutoff date for filing Form RSF-1, a membership count of all pupils claimed in the various federally-connected categories must be made either by:

(i) Conducting a parent-pupil survey to determine the parent's employment or active duty assignment in the uniformed services and the child's residence on Federal property; or by

(ii) Obtaining certifications from the various employers and the appropriate housing officials as to the employment of the parents of the children claimed or residence of the children on the specific date involved. A membership count of all pupils must be made as of this specific date, which is to constitute the official membership report of the applicant local educational agency for that date.

(2) The average daily attendance (hereinafter referred to as (ADA)) of federally-connected pupils shall then be obtained in the following manner.

(i) For the purposes of the application OE Form 4019 (Form RSF-1), the membership in the first count of each subcategory shall be multiplied by the ratio of total ADA to the date of the membership count to the total membership as reported in the official membership and ADA report of the applicant district for the reporting period; and

(ii) For the purposes of the final report OE Form 4037 (Form RSF-3) the membership of each subcategory shall be multiplied by the ratio of the total ADA for the period July 1 to the following June 30 to the total membership. This total ADA shall include ADA based upon free public education provided in summer school as determined in accordance with State law.

(20 U.S.C. 283(2)(b), 239(a), 244(10))

(f) "Average daily attendance of federally-connected pupils when determined by two counts of all pupils" means the number determined in the manner described in this paragraph.

(1) First count of membership of each category of federally-connected children must be made as described in paragraph (e) of this section. At the option of the applicant, a second count of membership may be made at a later date during the last quarter of the regular school year and uniformly for the entire local educational agency.

(2) A membership count of all pupils, made as of the same dates as the counts of federally-connected children, will constitute the official membership report of the applicant school district for those dates.

(3) The total membership for each count shall be added and the sum divided by two to compute an average total membership for both counts.

(4) The total federally-connected membership for each subcategory for both counts shall be added and the sum divided by two to compute an average federally connected membership for each subcategory.

(5) The total ADA for the period July 1 to the following June 30 shall be divided by the average total membership obtained in paragraph (3) to obtain the ratio of ADA to membership.

(6) For the purposes of the final report OE Form 4037 (Form RSF-3), the average membership of each subcategory for both membership counts shall be multiplied by the ratio of the total ADA to the average total membership. This total ADA shall include ADA based upon free public education provided in summer school as determined in accordance with State law.

(20 U.S.C. 238(a)(b), 239(a), 244(10))

* * * * *

(p) "County" means, for the purpose of computing entitlement under section 3 of the Act and payments under section 5 of the Act as well as for the purposes of this part, those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties, subject to the qualifications set forth below:

(1) Where a municipality or other political subdivision of a State is not treated as part of a county by the Secretary of Commerce in compiling and reporting data regarding counties, the term

"county" as used in this part shall also mean those municipalities and other political subdivisions; and

(2) Where a local educational agency is situated in more than one county, the phrase "in the county in which the school district of such agency is located" shall include any county in which the local educational agency is situated in whole or in part.

(20 U.S.C. 238(a)(b) and note, 20 U.S.C. 244(11); 88 Stat. 534)

2. Section 115.11 is amended by revising paragraph (g) to read as follows:

§ 115.11 Final date for filing applications.

* * * * *

(g) A timely filed application may be amended to apply for additional or alternative financial assistance under sections 3(d)(2)(B), 3(d)(3)(B)(ii), 3(e) or section 4(d) of the Act, or section 305(b)(2) of Pub. L. 93-380, if such an amendment is:

(1) Filed no later than September 30 of the fiscal year following that for which assistance is sought, and

(2) Accompanied by a detailed statement setting forth the basis of the claim and a justification for the requested entitlement.

(20 U.S.C. 240(a)(1))

3. Part 115 is amended by revising subpart C to read as follows:

Subpart C—Payments

Sec.
115.20 Changes in boundaries, classification, and governing authority of applicants.
115.21 Payments under section 3 when percentage eligibility requirement is not met.
115.22 Entitlements under section 3(e).
115.23 Payments under section 4(a).
115.24 Election under section 4(c).
115.25 Reduction of financial assistance under sections 2, 3, and 4 due to insufficient appropriations.
115.26 Failure or refusal of a local educational agency to educate children living on Federal property.
115.27 Adjustments to entitlement related to special savings clauses under Pub. L. 93-380.
115.28 Entitlements related to handicapped children of uniformed services personnel.
115.29 Entitlements related to low-rent public housing.

AUTHORITY: 20 U.S.C. 238-240, 244(11).

Subpart C—Payments

§ 115.20 Changes in boundaries, classification, and governing authority of applicants.

(a) If the applicant is a party to any merger, consolidation, annexation, deconsolidation, or other similar action which may affect its boundaries, identity, governing authority, classification, or control, it shall notify the Commissioner as soon as practicable of the effective date of that action, its extent and character, and the legal authority under which the action was or is to be effected. This notification must include the following information:

(1) The effective date of change in boundaries or organization, for all purposes, including administrative and fiscal;

(2) Identification by name, district, number and address of all former agencies involved and the application number for each applicant involved in any change;

(3) A statement describing the specific type of change, with a citation of the section or sections of the State law under which the change was accomplished;

(4) The legal name of the resulting successor agency (even if the name and legal classification of the applicant agency are retained after a change);

(5) A statement whether assets and liabilities of the former agency or agencies have been transferred to the successor agency, or whether a settlement agreement has been made and, if so, the effective date of this action;

(6) A statement whether a new board of education has or will assume control and management of the successor agency and, if so, the effective date; and

(7) The name and address of the authorized representative for purposes of the Act, who shall be duly designated by the governing body of the successor agency. Evidence of this official designation must be submitted in the form of a copy of the resolution duly recorded in the minutes of the proceedings of the governing body.

(b) A local educational agency shall not be entitled to any payment on the basis of an application under sections 3 or 4 of the Act (except as provided in paragraph (c) of this section) if:

(1) The change in the organization of the local educational agency is effective within the fiscal year covered by the application and occurs prior to the close of the regular school term of that year; and

(2) The local educational agency thereby ceases to be a legally constituted local educational agency. However, except as provided in § 115.21(d), a local educational agency which assumes administrative control and direction of free public education in all or a portion of the area of the previously existing applicant, may (if it is not already an applicant under the section involved or if it files an application in accordance with § 115.11(d)) have its entitlement under section 3(d)(1) or 4(a)(1) of the Act for the entire fiscal year determined by either of the following, whichever is more favorable to it:

(i) On the basis of the entire area under its jurisdiction on the last day of that year; or

(ii) On the basis only of the area acquired by the local educational agency from the previously existing local educational agency, except that the latter basis may only be used:

(A) For an application under section 3 of the Act for which a favorable finding has been made (or would have been made in due course but for the change in district organization) on the basis of the estimates required under section 3(c)(1) of the Act with respect to the previously existing agency; and

(B) For an application under section 4 of the Act for which such a favorable finding has been made (or would have been made in due course but for the change in district organization) under section 4(a)(1).

(c) Any payment made to a local educational agency prior to the date on which the first sentence of paragraph (b) to this section became applicable to it must be repaid to the United States except to the extent that:

(1) It is accounted for by the adjustments made in the entitlements of any successor applicant local educational agency pursuant to either paragraph (b) of this section or paragraph (d) of § 115.21; and

(2) Any balance remaining is found by the Commissioner not to be in excess of the amount to which the pre-existing local educational agency would have become entitled on the basis of the number of federally-connected children:

(i) Who were not covered by any other application; and

(ii) To whom free public education was provided by the previously existing local educational agency or by any successor non-applicant local educational agency.

(20 U.S.C. 237(c), 244(6)(A))

§ 115.21 Payments under section 3 when percentage eligibility requirement is not met.

(a) Pursuant to the exception provided in section 3(c)(2)(A)(ii) of the Act, an applicant shall continue to be eligible for payment under the Act, even if it fails to meet the 3 per centum eligibility requirement of section 3(c)(1)(B) of the Act, for two years following any fiscal year in which it met such requirement and was entitled to a payment under section 3.

(b) The number of children determined by the Commissioner for the purpose of establishing the amount of entitlement under section 3 in the second fiscal year of the two-year period specified in paragraph (a) shall not exceed 50 per centum of the number of these children so determined for the last fiscal year during which the applicant met the eligibility requirement of section 3(c)(1)(B) of the Act.

(c) If an applicant local educational agency was not in existence in either one or both of the two fiscal years preceding that for which application is made, that agency may nevertheless receive the benefit of the provisions of paragraph (a) of this section if that agency is:

(1) Composed only of territory which was formerly included in a predecessor agency or agencies which met the percentage eligibility requirement contained in section 3(c)(1)(B) of the Act; and

(2) The predecessor agency or agencies received a net payment under section 3 of the Act for the fiscal year two years or immediately prior to that for which application is made.

(20 U.S.C. 238(c)(2)(A)(ii))

(d) If any local educational agency which had filed an application in a timely manner under section 3 of the Act and was entitled to payment by virtue of paragraph (a) or (b) of this section ceases to be a legally constituted local educational agency as a result of a district reorganization which is effective prior to the close of the regular school term within the fiscal year covered by the application (thereby becoming subject to the provisions of § 115.20(b)), a successor local educational agency which:

(1) Files an application in accordance with § 115.11(d) (unless already an applicant under section 3); and

(2) Assumes administrative control and direction of free public education in all or a portion of the area of the previously existing applicant prior to the close of that applicant's regular school term, shall be entitled to have its application processed on the basis of the:

(i) Area acquired from the previously existing local educational agency, and

(ii) Rights of that agency, without regard to the 3 percent requirement, subject to appropriate adjustment on account of payments made to the previously existing local educational agency.

(20 U.S.C. 238, 244(6)(A))

(e) Section 305(b)(2)(A) of Pub. L. 93-380 shall govern the case of any local educational agency eligible prior to July 1, 1975 for a payment under section 3 of the Act by reason of the 3 per centum requirement in clause (b) of section 3(c)(2) of the Act as in effect prior to July 1, 1975, but which fails to meet this requirement in any fiscal year ending prior to July 1, 1977.

(88 Stat. 553, Sen. Rep. No. 93-763, 205)

§ 115.22 Entitlements under section 3(e).

(a) On the basis of determinations provided by section 3(e) of the Act with respect to reductions in the number of children to whom sections 3(a) and 3(b) of the Act apply, the amount to which an applicant is entitled for the fiscal year in which the determinations are made and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which the applicant was entitled under section 3 of the Act for the preceding fiscal year.

(b) With reference to eligibility determinations under section 3(e):

(1) In deciding whether the number of children determined with respect to an applicant under sections 3(a) and 3(b) of this Act is less than 90 per centum of the number of children determined under those sections of the Act for the applicant during the preceding fiscal year, the Commissioner shall divide the current fiscal year's federally connected ADA attributable to those sections by the preceding fiscal year's federally connected ADA so attributable.

(2) In determining whether there has been a substantial decrease in the number of children determined under sections 3(a) and 3(b) of the Act resulting from a decrease or cessation of Federal activities with respect to any applicant during the year for which an application is filed, the Commissioner shall deem this decrease to be substantial when it equals 3 per centum of the current fiscal year's total ADA and at least 10 in ADA.

(3) In determining whether the decrease described in the preceding subparagraph is a result of a decrease of Federal activities in the State within which the applicant is located, the Commissioner shall require local educational agencies to submit a statement identifying the particular decrease in or cessation of these Federal activities; the statement shall be certified as to its accuracy by an authorized official of the Federal agency associated with the conduct of the affected activities.

(c) Any payments to an applicant attributable to the operation of section 3(e) of the Act and this section shall be considered for all other purposes as payments attributable to determinations of children with respect to the applicant under section 3(b)(2)(A) of the Act.

(20 U.S.C. 238(e))

§ 115.23 Payments under section 4(a).

(a) Payment under section 4(a) is intended to compensate a local educational agency for sudden and substantial increases in pupils whose attendance in school during the current school year is a direct result of Federal activities. This payment may be made only when the Commissioner determines that, although the applicant has made a reasonable tax effort, the education of the increased number of children places a substantial and continuing financial burden on the applicant, and the applicant cannot secure funds from other sources adequate to provide these children a level of education equivalent to that maintained in generally comparable school districts in the same State.

(b) In the first fiscal year following payment under section 4(a), a payment not to exceed 50 percent of the entitlement in this preceding year under section 4(a) will be made, subject to the availability of funds. The payment may not include any entitlement due to those increases in section 3(a) or 3(b) of the preceding year for which payment was made.

(20 U.S.C. 239(a))

(c) No payments will be made pursuant to section 4(a) of the Act unless:

(1) The increase in ADA of federally-connected pupils in the current year over the ADA of those children in the preceding year is at least equal to 5 percent of non-Federal ADA in the preceding year, and

(2) The increase in the current total ADA over the preceding year's total ADA is at least 5 percent of the preceding year's total ADA.

(20 U.S.C. 293(a)(1))

(d) No payments will be made pursuant to section 4(a) of the Act unless the parents of the pupils entering the schools of the local educational agency for the first time during the current school year enter the area of that agency to accept employment because of Federal activities on or after February 1 of the preceding year. An increase in activities of the United States for the purpose of section 4(a) of the Act may be found to have occurred in circumstances which include the following:

(1) Activities resulting from Federal contracts in the current fiscal year when the number of employees engaged in the Federal activity increased over the preceding fiscal year; and

(2) Activities where production resulting from Federal contracts changed so as to require employees with new skills for this production; therefore, new employees migrated into the area of the local educational agency.

(e) Activities of those persons not employed by the United States or by a contractor of the United States shall not be considered to be a direct result of activities of the United States for the purposes of section 4(a).

(20 U.S.C. 239(a)(1); 83-703, House Report No. 703, July 3, 1953, 12)

§ 115.24 Election under section 4(c).

Pursuant to section 4(c) of the Act, a local educational agency may elect to count for eligibility and payment under section 4(a) of the Act the entire increase in the number of children who are:

(a) In average daily attendance at its schools during the fiscal year; and

(b) Otherwise eligible to be counted under section 3 of the Act. This election may be made only if an application under section 4 is filed in a timely manner on Form RSF-1 in accordance with § 115.11. This election is not subject to change after, and shall become final upon, the date of final payment for the fiscal year involved.

(20 U.S.C. 239(c))

§ 115.25 Reduction of financial assistance under sections 2, 3, and 4 due to insufficient appropriations.

(a) Except as otherwise provided by law, if the funds appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and 4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under these sections for that year, the Commissioner shall allocate the sums among local educational agencies on the basis of the method set forth in section 5(c) of the Act and subject to its restrictions. In accordance with section 5(c), payments shall be made to eligible local educational agencies so that:

(1) All entitlements established under section 2 or 3(d) of the Act are allocated at a rate of 25 per centum of such entitlements prior to any other allocations of entitlements for sections 2, 3, or 4 of the Act;

(2) All remaining entitlements established under section 3 are allocated at the various rates of payment set forth in paragraph (2) of section 5(c) of the Act prior to any other allocation of entitlements for sections 2 and 4 of the Act, provided that all allocations shall be paid in full or no allocation under this subparagraph may be made, subject, how-

ever, to the restriction set forth in section 5(e)(2) of the Act relative to property described in section 403(1)(C) of the Act as further treated in paragraph (b) of this section; and

(3) All remaining unsatisfied entitlements under sections 2, 3, and 4 of the Act are allocated in proportion to the degree to which these entitlements are unsatisfied.

(b) Any part of an entitlement determined under section 3 of the Act attributable in whole or in part to children residing on, or residing with a parent employed on property described in section 403(1)(C) of the Act (related to low-rent public housing) shall be considered to be attributable in its entirety to these children. No payments attributable to that part of any entitlement of any local educational agency which is so determined shall be made under section 5(c)(2) of the Act. Thus, payments with respect to entitlements based in whole or in part on low-rent public housing children are to be excluded in their entirety under section 5(c)(2).

(20 U.S.C. 240(e); Sen. Rep. No. 93-1026, 162 (1974).)

§ 115.26 Failure or refusal of a local educational agency to educate children living on Federal property.

If, for any fiscal year for which section 6(f) of the Act is effective, no tax revenues of a State or of a political subdivision of a State may be expended for the free public education of children who reside on Federal property within the State or, if no tax revenues of a State are allocated for the free public education of these children, then that property shall not be considered to be Federal property for the purpose of computing entitlements under sections 3 and 4 of the Act of local educational agencies within that State with respect to children living off that property with parents who are employed thereon. Furthermore, deductions shall be made from the entitlements of certain local educational agencies in the circumstances and manner described in the second sentence of section 6(f) of the Act.

(20 U.S.C. 241(f).)

§ 115.27 Adjustments to entitlement related to special savings clauses under Pub. L. 93–380.

(a) All payments under the Act and this part shall be subject to the provisions in paragraphs (b) through (e) below in addition to those provisions set forth in § 115.25 of this part and in other law.

(b) *Section 305(b)(2)(A) of Pub. L. 93-380.* (1) The first sentence of section 305(b)(2)(A)(i), Pub. L. 93-380 shall be applicable to any local educational agency entitled to receive a payment under section 3 of the Act for the fiscal year in which section 305(b)(2)(A)(i) would be applied.

(i) In the case of any local educational agency to which section 305(b)(2)(A) of Pub. L. 93–380 is applicable, the computation of either the 90 percent or 80 percent level of payment at which the agency shall be held harmless will be based on the amount paid to the agency according to its entitlement for the preceding fiscal year under section 3 of the Act.

(ii) The special appropriation requirements of section 305(b)(2)(A)(ii), Pub. L. 93–380, shall apply to any payments determined with respect to an eligible local educational agency under the first sentence of section 305(b)(2)(A)(i).

(2) The second sentence of section 305(b)(2)(A)(i), Pub. L. 93–380 shall apply to any local educational agency eligible for a payment under section 3 of the Act by reason of the 3 percent requirement in clause (B) of section 3(c)(2) of the Act, as in effect prior to July 1, 1975, but which fails to meet the requirement in any fiscal year ending prior to July 1, 1977.

(i) In the case of any applicant to which the second sentence of section 305(b)(2)(A)(i) is applicable, any payment made to the applicant by the operation of the second sentence shall, notwithstanding the first sentence of such section, be subject during the second succeeding fiscal year of eligibility to the restrictions on payment for the second fiscal year as set forth in the second sentence of the section.

(ii) Any payment to an eligible applicant resulting from the operation of the second sentence of section 305(b)(2)(A)(i) of Pub. L. 93-380 shall not be subject to the special funding requirement set forth in section 305(b)(2)(A)(i) of the Act.

(88 Stat. 553; Sen. Rep. 93-1026, 163-164; Sen. Rep. No. 93-763, 57.)

(c) *Section 305(b)(2)(B) of Pub. L. 93-380.* (1) Section 305(b)(2)(B), Pub. L. 93-380 shall apply to any local educational agency which experiences a decrease in the number of children determined by the Commissioner under section 3 of the Act of 10 per centum or more of that number:

(i) During the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

(ii) During the period beginning July 1, 1973, and ending June 30, 1975; as the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973. For purposes of this section, the term "military installation" shall mean a facility, camp, or base operated by or under the jurisdiction of one of the branches of the Armed Forces of the United States. The announcement of decrease or cessation of Federal activities must be an official announcement or order issued by the Federal agency engaged in or directing the activity thereby affected.

(2) The decrease in the number of children as provided in section 305(b)(2)(B) of Pub. L. 93–380 shall be determined in the following manner:

(i) For the fiscal year ending June 30, 1974, that part of the section 3 ADA of the applicant for the fiscal year as determined under § 115.3 (e) or (f) of this part attributable to military installations affected by a decrease in, or cessation of, Federal activities announced after April 16, 1973, shall be subtracted from that part of the section 3 ADA as so determined for the fiscal year ending June 30, 1973;

(ii) For the fiscal year ending June 30, 1975, that part of the section 3 ADA of the applicant for the fiscal year as determined under § 115.3 (e) or (f) of this part attributable to military installations affected by a decrease in or cessation of Federal activities announced after April 16, 1973, shall be subtracted from that part of the section 3 ADA as so determined for the applicant for the fiscal year ending June 30, 1974;

(iii) For the period beginning July 1, 1973, and ending June 30, 1975, that part of the section 3 ADA of the applicant for fiscal year 1975 as determined under § 115.3 (e) or (f) of this part attributable to military installations affected by a decrease in or cessation of Federal activities announced after April 16, 1973, shall be subtracted from that part of the section 3 ADA as so determined for the applicant for the fiscal year ending June 30, 1973; and

(iv) After obtaining the figure of decrease under either clause (i), (ii), or (iii) above, that figure shall be divided by the total federally-connected ADA for the fiscal year preceding the respective period of decrease. An applicant shall be eligible for payment under section 305(b)(2)(B) of Pub. L. 93–380 only if the resulting calculation equals 10 percent or more.

(3) In determining eligibility for entitlements under section 305(b)(2)(B) of Pub. L. 93–380, the number of children for whom a determination is made under section 3(e) of the Act as in effect prior to July 1, 1975 shall not be included in the federally-connected ADA figure.

(4) Payments may be made on the basis of section 305(b)(2)(B) only when there is a direct relationship between the decrease in federally-connected ADA due to a decrease in or cessation of Federal activities on a military installation and a specific announcement of a decrease or cessation of Federal activities. In making this determination, the Commissioner will require of an applicant the submission of such additional data and information as deemed necessary to substantiate this relationship.

(5) Payments of entitlements computed under section 3 of the Act to a local educational agency to which section 305(b)(2)(B), Pub. L. 93–380 is applicable shall not be less than 90 per centum of the amount to which the agency was entitled during the preceding fiscal year under section 3.

(88 Stat. 534; Sen. Rep. No. 93-763, 57-58, 206-207 (1974).)

(d) *Section 305(b)(2)(C) of Pub. L. 93-380.* (1) Section 305(b)(2)(C), Pub. L. 93-380, shall be applicable to any local educational agency in which the ADA, with respect to children who, while in attendance at the schools of the agency, resided with a parent employed on Federal property in a State or in a county other than the State or county in which the agency is located but which is situated within reasonable commuting distance from the school district of the agency, is equal to at least 10 per centum of the ADA for that fiscal year for children determined with respect to the agency under section 3(b) of the Act.

(i) In determining whether Federal property in a State or county other than the State or county in which the local educational agency is located is situated within a reasonable commuting distance from the school district of the agency, the Commissioner shall adhere to any prior determination under Pub. L. 81-874 regarding a reasonable commuting distance for the agency, unless the agency presents new information which would merit reconsideration of that determination. Any Federal property located in the same State in which the local educational agency is situated shall be deemed to be within reasonable commuting distance of the school district of that agency.

(ii) In determining the relevant number of children specified in the first sentence of section 305(b)(2)(C) of Pub. L. 93-380, the Commissioner shall rely upon ADA data and information provided by the applicant for these children in the same manner as set forth for children under section 3(b) of the Act under § 115.3 (e), (f) of this part.

(2) With regard to any local educational agency to which section 305(b)(2)(C), Pub. L. 93-380 is applicable, the amount to which the agency shall be entitled under section 3(b) shall not be less than 90 per centum of the amount that the agency received with respect to the number of children determined under section 3(b) during the preceding fiscal year.

(88 Stat. 535, Sen. Rep. No. 93-763, 206-207.)

(e) *Section 305(b)(2)(D) of Pub. L. 93-380.* (1) Section 305(b)(2)(D), Pub. L. 93-380 shall apply to any local educational agency which is entitled to receive a payment under section 3 of the Act for the fiscal year in which section 305(b)(2)(D) is to be applied.

(2) In making a determination under section 305(b)(2)(D) of Pub. L. 93-380 as to the amount of payment which an applicant would be entitled under the operation of such section, the Commissioner may use estimated entitlements and payments with reference to sections 3 and 5(c) of the Act. An underestimate made by the Commissioner shall not operate to deprive an applicant of any payments under section 305(b)(2)(D) had the estimate been accurate.

(88 Stat. 536)

§ 115.28 Entitlements related to handicapped children of uniformed services personnel.

(a) For the purposes of this section, the following terms shall have the meanings set forth below: (1) "Free public education" means free public education as defined in section 403(4) of the Act and includes any preschool program authorized under State law.

(2) "Handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education and related services.

(3) "Children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include conditions such as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

(4) "Related needs" means those needs related to a handicap or specific learning disability for which supplemental services, in addition to direct instructional services, are deemed necessary, including, but not limited to, speech pathology and audiology services, diagnostic services (exclusive of schoolwide initial screening for handicaps and specific learning disabilities), health services, food services, pupil transportation, and library services.

(5) "Preschool program" means an educational or related program encompassing the educational level from a child's birth to the time at which elementary education is provided as determined under State law, provided that this program is recognized as free public education under or pursuant to State law.

(20 U.S.C. 238(d)(2)(C), 20 U.S.C. 1401, 45 C.F.R. § 100.1)

(b) That part of any payment to an applicant which is attributable to the entitlement for handicapped children and children with specific learning disabilities provided by section 3(d)(2)(C) must be expended for programs provided by the applicant which are designed to meet the special educational needs of those children.

(c) In order that handicapped children and children with specific learning disabilities may be counted for the purpose of an increased entitlement under section 3(d)(2)(C) of the Act, these children:

(1) Must have a parent on active duty in the uniformed services, as defined by section 101 of Title 37 United States Code, and

(2) Must be receiving special educational and related services suited to their individual needs through programs (including preschool programs) provided by local educational agencies for these children which are of sufficient size, scope, and quality (taking into consideration the special educational needs of the children) as to give reasonable promise of substantial progress toward meeting those needs.

(20 U.S.C. 238(d)(2)(C); Sen. Rep. No. 93-1026, 158 (1974); 20 U.S.C. 240(f))

(d) The provision of special educational services (for children determined under section 3(d)(2)(C) of the Act) must result in the expenditure of funds by the local educational agency for handicapped children and children with specific learning disabilities above the average per pupil expenditure for nonhandicapped children in the agency to an extent equal to at least the per pupil payment attributable to a determination of increase in entitlement under section 3(d)(2)(C). An applicant which claims an increased entitlement under section 3(d)(2)(C) of the Act shall be required to submit such information as the Commissioner may deem necessary to substantiate compliance with this condition.

(20 U.S.C. 238(d)(2)(C); 20 U.S.C. 240(f); H.R. Rep. No. 93-763, 45)

(e) Each application for assistance under the Act which is based in any part upon a determination of any number of children who are counted under section 3(d)(2)(C) of the Act shall contain an assurance that the children are receiving services in programs (including preschool programs) which are of sufficient size, scope, and quality as to give reasonable promise of substantial progress toward meeting the special educational and related needs of the children.

(1) A determination whether these programs are of sufficient size, scope and quality shall be based upon the individual State's standards for certification of the programs, subject, however, to such further requirements as may be imposed by section 3(d)(2)(C) of the Act and this section.

(2) Each application containing the assurance required by this paragraph shall also contain a certification by the State in which the applicant is situated to the effect that the particular program(s) provided by the applicant conforms to State standards and meets any other requirements imposed by law.

(f) Each application for assistance under the Act which is based in any part upon a determination under section 3(d)(2)(C) of the Act shall contain an assurance that the programs designed to meet the special educational and related needs of children determined under that section conform to the policies and procedures required in fulfillment of the additional State plan requirement under section 613(b) of the Education of the Handicapped Act and any regulations adopted pursuant thereto.

(1) Each application containing the assurance required by this paragraph shall also contain a certification by the State in which the applicant is situated that the program(s) provided by the applicant conforms to the additional State plan requirements of section 613(b) of the Education of the Handicapped Act.

(2) In making a determination whether these State standards and these programs conform to the policy and procedures under the additional State plan requirements, the Commissioner shall

consult with persons in charge of special education programs for handicapped children and children with specific learning disabilities in the educational agency of the State in which the applicant is situated.

(20 U.S.C. 238(d)(2)(C); H.R. Rep. No. 98-805, 45-46 (1974); Sen. Rep. No. 93-1026, 45 (1974); *Cong. Record*, daily ed., H7396, July 31, 1974)

(g) Any payments made to a local educational agency pursuant to sections 3 and 5 of the Act, which are based on children with respect to whom a determination has been made under section 3(d)(2)(C) of the Act, shall not be taken into consideration by a State in determining eligibility for or the amount of State aid.

(20 U.S.C. 238(d)(2)(C), 20 U.S.C. 240(d)(1))

§ 115.29 Entitlements related to low-rent public housing.

(a) For the purposes of this part, the term "low-rent public housing" shall mean that type of Federal property which is described in section 403(1)(C) of the Act.

(b) The amount of the payment to any applicant which is determined with respect to section 5(e)(1) of the Act and § 115.25(b) of this part regarding determinations under subsection (a) and (b) of section 3 of the Act concerning the number of children who resided on, or resided with a parent employed on low-rent public housing shall be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low-income families in the following manner:

(1) To continue and to augment, where practicable, programs assisted under Title I of the Elementary and Secondary Education Act of 1965 which would otherwise be eliminated or diminished due to the adoption of the new formula for distribution of assistance under that title by Pub. L. 93-380, and to provide programs and projects, in accordance with the appropriate provisions of parts 116 and 116a of this chapter, for educationally deprived children in attendance areas which are eligible for Title I assistance but which have not received such assistance;

(2) If the programs specified in subparagraph (a)(1) are fully provided; to carry out programs and projects in other areas of the agency which are designed to meet the special educational needs of educationally deprived children from low-income families. These programs and projects shall serve only those children which the local educational agency has determined to be educationally deprived children from low-income families on the basis of uniform criteria approximating as closely as possible those used in its determination with respect to Title I, ESEA. In determining whether a child is from a low-income family for purposes of this paragraph, the local educational agency may consider as such children residing in low-rent public housing, children living in institutions for neglected or delinquent children for whom the local educational agency is providing free public education, children being supported in foster homes with public funds and the like.

(20 U.S.C. 240(4); Sen. Rep. No. 93-1026, 162 (1974))

(c) No funds allocated with respect to section 5(e) of the Act may be consolidated (within the meaning set forth in 20 U.S.C. 1231(c)(1)(C)) with funds from other sources including other funds under the Act not attributable to low-rent public housing children, in such a manner to render indistinguishable for accounting and audit purposes the source of those funds when used in programs and projects specified in paragraph (b) of this section.

(d) Funds allocated with respect to section 5(e) of the Act shall be subject to all applicable requirements, restrictions, and other conditions of use set forth in the provisions of Title I, ESEA and parts 116 and 116a of this chapter except that, where paragraph (b)(2) of this section is applicable, any requirements related to the determination of eligible attendance areas under Title I, ESEA shall not apply.

(e)(1) Any applicant claiming entitlements based in whole or in part on low-rent public housing children under section 5(e) of the Act shall:

(i) Submit to the Commissioner as a supplement to its application filed under subpart B of this part, or in conjunction with an application for assistance under Title I, ESEA filed with the State educational agency, where such assistance has been applied for, an application through its State educational agency setting forth a description of the proposed use of funds to which it is entitled under the Act with respect to low-rent public housing children together with an assurance that such funds shall be used only for the purposes for which they were granted and in conformity with the requirements of this section and the applicable provisions of sections 116 and 116a of this chapter; and

(ii) In addition, obtain and submit to the Commissioner in conjunction with the application described in clause (i) a statement from the State educational agency certifying the accuracy and validity of the application and assurance provided for in subparagraph (1) together with an assurance from the State educational agency that if, at any time, the State agency finds that an applicant agency is not acting in compliance with the terms of the application provided for by this paragraph, the State agency shall so notify the Commissioner.

(2) No payments shall be made to any local educational agency on the basis of entitlements attributable to low-rent public housing children under section 5(e) of the Act until the requirements of this paragraph have been fulfilled. However, applicants shall be notified as to any estimated payment that would be made based on these children as soon as an application filed in accordance with subpart B of this part has been processed.

(f) No payments attributable to section 5(e) of the Act shall be made in any fiscal year to any local educational agency located in a State which has taken, or will take, these payments into consideration in determining the eligibility of a local educational agency for State aid, or in determining the amount of that aid, for the free public education of its children in such a way as to penalize the local educational agency with respect to the availability of State funds.

(20 U.S.C. 240(d)(1)(2), (e); Sen. Rep. No. 93-1026, 162 (1974))

4. § 115.30 is amended by revising paragraphs (a)(10) and (b)(2)(iii) to read as follows:

§ 115.30 Determination of generally comparable local educational agencies.

(a) * * *

(10) Estimated current fiscal year per pupil cost for the State (in those States in which an applicant requests an entitlement under section 3(d)(2)(B) or 4 of the Act). The actual per pupil costs shall be submitted to the Commissioner at such time as they become available for each group.

(20 U.S.C. 238(d), 255(5))

(b) * * *

(2) * * *

(iii) The estimated percent of change in per pupil cost for all local educational agencies in the State, in the aggregate, for the current fiscal year from the second preceding fiscal year, for each State wherein an applicant requests an entitlement under section 3(d)(2)(B) or section 4. Since comparable district data are submitted for the second year preceding, the estimated percent of increase factor for adjusting the per pupil cost to the current year will suffice for all purposes prior to the final payment. However, the State shall submit actual data to the Commissioner for the purpose of computing final payments (except those final payments made pursuant to section 3(d)(2)(B) and 4 of the Act).

(20 U.S.C. 238(d), 244(5))

A COMPILATION OF TITLES I AND IV OF PUBLIC LAW 374, EIGHTY-FIRST CONGRESS, AS AMENDED (20 U.S.C. 236-651-1, 242-245) RELATING TO FINANCIAL ASSISTANCE IN FEDERALLY AFFECTED AREAS [1]

AN ACT

To provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes.

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[1] Prepared by the Division of School Assistance in Federally Affected Areas, U.S. Office of Education, for use of its staff and interested applicants.

P.L. 874 (81st Cong.), approved September 30, 1950, has been amended by the 83d Congress by P.L. 170, approved July 31, 1953; P.L. 248, approved August 8, 1953; and P.L. 732, approved August 31, 1954; by the 84th Congress by P.L. 204, approved August 1, 1955; P.L. 221, approved August 4, 1955; P.L. 382, approved August 12, 1955; P.L. 896, approved August 1, 1956; and P.L. 949, approved August 4, 1956; and by P.L. 85-620, approved August 12, 1958; P.L. 85-900, approved September 2, 1958; P.L. 86-70, approved June 25, 1959; P.L. 86-449, approved May 6, 1960; P.L. 86-624, approved July 12, 1960; P.L. 97-344, approved October 3, 1961; P.L. 88-210, approved December 18, 13, 1960, P.L. 87-344, approved October 3, Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Declaration of Policy

Section 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this title) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.

Federal Acquisition of Real Property

Sec. 2. (2) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to *October 1, 1978*

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired), and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired, then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition).

2(b) For the purposes of this section any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933, as amended, shall not be regarded as Federal property.

2(c) Where the school district of any local educational agency shall have been formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at the time it files application under section 5) for any fiscal year to have (1) the eligibility of such local educational agency and (2) the amount which such agency shall be entitled to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school district as the agency shall designate in such election.

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

CHILDREN OF PERSONS WHO RESIDE AND WORK ON FEDERAL PROPERTY

Sec. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

3(a)(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

3(a)(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code). In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as described in clause (A) of section 403(1).

CHILDREN OF PERSONS WHO RESIDE OR WORK ON FEDERAL PROPERTY

3(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to October 1, 1978, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a) determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a)) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either (1) resided on Federal property, or (2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency, or (3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code). For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to October 1, 1978, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education during such fiscal year, and who, while in atendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

ELIGIBILITY FOR PAYMENTS

3(c)(1) Except as is provided in paragraph (2), no local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under subsection (a) and subsection (b), unless the number of children so determined with respect to such agency amounts to—

(A) at least four hundred such children; or

(B) a number of such children which equals at least 3 per centum of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education; whichever is the lesser.

3(c)(A)(i) Clause (B) of paragraph (1) shall not operate to make any local educational agency eligible for a payment under this section for any fiscal year unless the number of children with respect to whom determination was made under subsections (a) and (b) respecting such agency for that fiscal year is at least ten.

3(c)(2)(A)(ii) If a local educational agency is eligible for a payment for any fiscal year by the operation of clause (B) of paragraph (1), it shall continue to be so eligible for the two succeeding fiscal years even if such agency fails to meet the requirement of such clause (B) during such succeeding fiscal years, except that the number of children determined for the second such succeeding fiscal year with respect to such agency for the purpose of any clause in paragraph (1) of subsection (d) shall not exceed 50 per centum of the number of children determined with respect to such agency for the purpose of that clause for the last fiscal year during which such agency was so eligible.

3(c)(2)(A)(iii) If the Commissioner determines with respect to any local educational agency for any fiscal year that—

(I) such agency does not meet the requirement of clause (B) of paragraph (1); and

(II) the application of such requirement, because of exceptional circumstances, would defeat the purposes of this title; the Commissioner is authorized to waive such requirement with respect to such agency.

(B) No local educational agency shall be entitled to receive a payment for any fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children so determined constitutes at least 20 per centum of the total number of children who

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1964; P.L. 89-10, approved April 11, 1965; P.L. 89-77, approved July 21, 1965; P.L. 89-313, approved November 1, 1965; P.L. 89-750, approved November 3, 1966; and P.L. 90-147, approved January 2, 1968; P.L. 90-576, approved October 16, 1968; P.L. 91-230, approved April 13, 1970; Public Law 92-318, approved June 23, 1972; P.L. 93-150, approved November 7, 1973; *P.L. 93-288, approved May 22, 1974; P.L. 93-380, approved August 21, 1974; and P.L. 93-344, approved July 12, 1974.*

were in average daily attendance at the schools of such agency and for whom such agency, during such fiscal year, provided free public education.

AMOUNT OF PAYMENTS

3(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), and (B)(v), and

(B) in any other case, an amount equal to the sum of—

(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

(iii) the product obtained by multiplying 80 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b),

(iv) the product obtained by multiplying 60 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2)(A) of subsection (b), and

(v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).

3(d)(2)(A) Not later than December 1 during each fiscal year beginning after September 30, 1977, the Commissioner shall, except as is provided in clause (iii) in the third sentence of this subparagraph, determine the total number of children with respect to whom determinations are made under subsection (b) for all local educational agencies making application for payments under this section which meet the eligibility requirements set forth in subsection (c). The Commissioner shall determine the percentage which such number constitutes of the total number of children who were in average daily attendance at the schools of such agencies during such fiscal year and for whom such agencies provided free public education. In calculating the products under clauses (B)(iii), (B)(iv), and (b)(v) of paragraph (1), with respect to any local educational agency for any fiscal year, the Commissioner shall reduce the number of children with respect to whom a determination is made under subsection (b) by a number equal to one-half of the number which the percentage determined under the preceding sentence constitutes of the total number of children with respect to whom such a determination is made and who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, except that—

(i) such percentage shall not exceed 4 per centum;

(ii) the number reduced shall not exceed three hundred; and

(iii) this subparagraph shall not apply to any local educational agency (I) with respect to which the number of children determined under subsection (b) for any fiscal year amounts to at least 10 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, or (II) during any fiscal year in which such agency receives more than 25 per centum of the funds for its current expenditures from payments under this section.

In determining the total number of children who were in average daily attendance at the schools of an agency during any fiscal year under clause (iii)(I) in the preceding sentence, the number of children in such schools with respect to whom a determination is made under subsection (a) for such year shall not be considered.

(B) If the Commissioner determines that—

(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or clause (1) of subsection (b), or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State; the Commissioner is authorized to increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year, multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or clause (1) of subsection (b), or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

(C)(i) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to handicapped children and children with specific learning disabilities for whom a determination is made under subsection (a)(2) or (b)(3) and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 150 per centum.

(C)(ii) For the purposes of division (i), programs designed to meet the special educational and related needs of such children shall be consistent with criteria established under division (iii).

(C)(iii) The Commissioner shall by regulation establish criteria for assuring that programs (including preschool programs) provided by local educational agencies for children with respect to whom this subparagraph applies are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs and in the implementation of such regulations the Commissioner shall consult with persons in charge of special education programs for handicapped children in the educational agency of the State in which such local educational agency is located.

(C)(iv) For the purpose of this subparagraph the term "handicapped children" has the same meaning as specified in section 602(1) of the Education of the Handicapped Act and the term "children with specific learning disabilities" has the same meaning as specified in section 602(15) of such Act.

3(d)(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources, divided by—

(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

(B)(i) The local contribution rate for a local educational agency in any State shall not be less than—

(I) 50 per centum of the average per pupil expenditure in such State, or

(II) 50 per centum of such expenditures in all the States, whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

(ii) If the current expenditures in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

(ii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency,

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands; and

(ii) the "average per pupil expenditure" in a State shall be

(I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

ADJUSTMENTS FOR DECREASES IN FEDERAL ACTIVITIES

3(e) Whenever the Commissioner determines that—

(1) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 per centum of the number so determined with respect to such agency during the preceding fiscal year;

(2) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

(3) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year, the amount to which such agency is entitled for such fiscal year and for any of the three succeeding fiscal years shall not be less than 90 per centum of the amount to which such agency was so entitled for the preceding fiscal year. That part of any entitlement of any local educational agency which is in excess of the amount which such entitlement would be without the operation of the preceding sentence shall be deemed to be attributable to determinations of children with respect to such agency under subsection (b)(2)(A).

DETERMINATIONS ON THE BASIS OF ESTIMATES

3(f) Determinations with respect to a number of children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any local educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

SECTION 3 HOLD-HARMLESS PROVISIONS (SECTION 305(b), P.L. 93-380)

Section 305(b)(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall be effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975, and the amendments made by paragraph (3) of subsection (a) shall be effective upon enactment of this Act.

Section 305(b)(2)(A)(i) Notwithstanding any other provision of law unless enacted in express limitation of this subparagraph—

(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950, for any fiscal year beginning after June 30, 1974, and ending prior to October 1, 1978, on the basis of the entitlement of that agency under such section 3, shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year.

(II) in the case of any other local educational agency, the amount so paid during any fiscal year beginning after June 30, 1974, and ending prior to October 1, 1978, shall not be less than 80 per centum of the amount so paid for the preceding fiscal year.

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act, as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a), but which fails to meet such requirement in any fiscal year ending prior to October 1, 1977, such agency shall continue to be eligible for a payment under section 3 as then in effect for the two succeeding fiscal years, but the payment under such section during the second of such succeeding fiscal years shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B).

(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), which are increased by reason of the provisions of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I is enacted and such law makes no express provisions for payments increased by division (i)—

(I) all funds so appropriated shall be allocated and paid in accordance with section 5 of such Act of September 30, 1950, and without regard for the provisions of division (i); and

(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) of 10 per centum or more of such number—

(i) during the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

(ii) during the period beginning July 1, 1973, and ending June 30, 1975; as the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act, as computed under section 3 of such Act, for any fiscal year ending prior to October 1, 1978, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of the subparagraph shall be effective on and after July 1, 1974, and with respect to appropriations for the fiscal year ending June 30, 1975, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1975. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950.”

(C) During the first fiscal year in which the amendments made by subsection (a) are effective and each of the succeeding fiscal years ending prior to October 1, 1978, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) for such fiscal year, shall not be less than 90 per centum of the amount which such agency received with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act.

(D)(i) The Commissioner shall determine for each fiscal year beginning after June 30, 1975, and ending prior to October 1, 1978, the amount which each local educational agency would be paid for that fiscal year under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) if the amount appropriated had been allocated as provided in section 5(c) of such Act without regard for entitlements (or portions thereof) which are attributable to determinations under subsections (a) and (b) of such section of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project described in section 403(I)(C). The Commissioner shall then determine the amount which each local educational agency is to be paid for that fiscal year under such section 3 and allocated in accordance with such section 5(c). If the amount determined with respect to any local educational agency under the first sentence of this division is greater than the amount determined with respect to the second sentence of this division, the Commissioner shall pay to that agency an amount equal to the difference between the amounts so determined.

(II) Funds appropriated for any fiscal year for making payments pursuant to the third sentence of division (1) shall be separate from funds appropriated for such fiscal year for making payments pursuant to section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress). If, for any fiscal year, a law making appropriations for payments pursuant to such section 5 is enacted, and such law makes no express provision for payments pursuant to such third sentence—

(I) all funds so appropriated shall be allocated and paid in accordance with such section 5, without regard for such third sentence, and

(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to make the payments required under such third sentence and shall, with respect to such dollar amounts, constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE INCREASES HEREAFTER OCCURRING

Section 4(a) If the Commissioner determines for any fiscal year ending prior to October 1, 1978,

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such agency during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on (Federal property),

(2) that such activities of the United States have placed on such agency a substantial and continuing financial burden; and

(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance but is unable to secure sufficient funds to meet the increased educational costs involved, then such agency shall be entitled to receive for such fiscal year an amount equal to the product of—

(A) the number of children which the Commissioner determines to be the increase, so resulting from activities of the United States, in such year in average daily attendance, and

(B) the amount which the Commissioner determines to be the current expenditure per child necessary to provide free public education, to such additional children during such year minus the amount which the Commissioner determines to be available from State, local, and Federal sources for such purpose (not counting as available for such purpose either payments under this Act or funds from local sources necessary to provide free public education to other children).

For the next fiscal year (except where the determination under the preceding sentence has been made with respect to the fiscal year ending September 30, 1978) such agency shall be entitled to receive 50 per centum of such product reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year, but not to exceed for such year the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds (exclusive of funds available under title II) available to it for such purpose, to provide a level of education equivalent to that maintained in the school districts in such State which in his judgment are generally comparable to the school district of such agency. The determinations whether an increase has occurred for purpose of clause (1) hereof and whether such increase meets the 5 per centum requirement contained in such clause, for any fiscal year, shall be made on the basis of estimates by the Commissioner made prior to the close of such year, except that an underestimate made by the Commissioner pursuant to the foregoing provisions of this sentence shall not operate to deprive an agency of its entitlements to any payments under this section to which it would be entitled had the estimate been accurate. The determination under clause (B) shall be made by the Commissioner after considering the current expenditures per child in providing free public education in those school districts in the State which, in the judgment of the Commissioner, are generally comparable to the school district of the local educational agency for which the computation is being made.

4(b) Omitted.

COUNTING OF CERTAIN CHILDREN

4(c) In determining under subsection (a) whether there has been an increase in attendance in any fiscal year directly resulting from activities of the United States and the number of children with respect to whom payment is to be made for any fiscal year, the Commissioner shall not count—

(A) children with respect to whom a local educational agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year: *Provided*, That the Commissioner shall count for such purposes as an increase directly resulting from activities of the United States, an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property, if the local educational agency files, in accordance with regulations of the Commissioner, its election that such increase be counted for such purposes instead of for the purposes of section 3; and

(B) children whose attendance is attributable to activities of the United States carried on in connection with real property which has been excluded from the definition of Federal property by the third sentence of paragraph (1) of section 403.

ADJUSTMENT FOR CERTAIN DECREASES IN FEDERAL ACTIVITIES

4(d) Whenever the Commissioner determines that—

(1) a local educational agency has made preparations to provide during a fiscal year free public education for a certain number of children to whom subsection (a) applies;

(2) such preparations were in his judgment reasonable in the light of the information available to such agency at the time such preparations were made; and

(3) such number has been substantially reduced by reason of a decrease in or cessation of Federal activities or by reason of a failure of any of such activities to occur, the amount to which such agency is otherwise entitled under this section for such year shall be increased to the amount to which, in the judgment of the Commissioner, such agency would have been entitled but for such decrease in or cessation of Federal activities or the failure of such activities to occur, minus any reduction in current expenditures for such year which the Commissioner determines that such agency has effected, or reasonably should have effected, by reason of such decrease in or cessation of Federal activities or the failure of such activities to occur.

CONSULTATION WITH STATE AND LOCAL AUTHORITIES

4(e) All determinations of the Commissioner under this section shall be made only after consultation with the State educational agency and the local educational agency.

PAYMENTS—APPLICATIONS

Section 5(a)(1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under sections 2, 3, or 4 shall submit an application therefor through the State educational agency of the State in which such agency is located to the Commissioner. Such applications shall be submitted at such time, in such form, and containing such information as the Commissioner may reasonably require to enable him to carry out his functions under this title and shall give adequate assurance that the applicant will submit such reports as the Commissioner may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of such payment.

Section 5(a)(2)(A) Applications submitted under paragraph (1) for payments on the basis of children determined under section 3(a) or 3(b) who reside, or reside with a parent employed on Indian lands shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the local educational agency.

(B) For the purposes of this paragraph, the term "Indian lands" means that property included within the definition of Federal property under clause (A) of section 403(1).

PAYMENTS BY THE COMMISSIONER

5(b) The Commissioner shall pay to each local educational agency, making applications pursuant to subsection (a), the amount to which it is entitled under sections 2, 3, or 4. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitations of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

5(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and 4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

5(c)(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 and section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 2 or section 3(d), as the case may be, for such fiscal year.

5(c)(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount—

(A) to each local educational agency described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d) with respect to a determination of a number of children under section 3(a), for such fiscal year;

(B) to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children as computed under section 3(d), for such fiscal year;

(C) to each local educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(D) to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

(E) to each local educational agency with respect to which a number of children determined under clause (1) and clause (2)(A) of section 3(b) which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year;

(F) to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year; and

(G) to each local educational agency with respect to the amount to which such agency is entitled under section 2 which equals 35 per centum of the amount to which such agency is entitled on the basis of computations made under section 2 for such fiscal year.

5(c)(3) Any sums remaining after allocations are made pursuant to paragraph (2) for any fiscal year shall be allocated by the Commissioner among local educational agencies which have unsatisfied entitlements established under sections 2, 3, and 4 in proportion to the degree to which such entitlements are unsatisfied for that fiscal year, after allocations are made pursuant to paragraphs (1) and (2). No allocation may be made pursuant to paragraph (2) or (3) and no payment may be paid on the basis of any such allocation unless allocations are made pursuant to paragraph (1) and payments are made on the basis of such allocations. No allocation may be made pursuant to any clause of paragraph (2) and no payment may be made on the basis of any such allocation unless allocations are made pursuant to all of the clauses of such paragraph and payments are made on the basis of such allocations.

TREATMENT OF PAYMENTS BY THE STATES IN DETERMINING ELIGIBILITY FOR, AND THE AMOUNT OF, STATE AID

5(d)(1) Except as provided in paragraph (2), no payments may be made under this title for any fiscal year to any local educational agency in any State (A) if that State has taken into consideration payments under this title in determining—

(i) the eligibility of any local educational agency in that State for State aid for free public education of children; or

(ii) the amount of such aid with respect to any such agency during that fiscal year or the preceding fiscal year, or (B) if such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

5(d)(2)(A) Notwithstanding paragraph (1) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues.

Whenever a State educational agency or local educational agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

(B) The terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by the Commissioner by regulation, after consultation with State and local educational agencies affected by this subsection provided that the term "equalize expenditures" shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

LIMITATIONS ON PAYMENTS WITH RESPECT TO CHILDREN ON, OR RESIDING WITH A PARENT EMPLOYED ON, FEDERAL PROPERTY DESCRIBED IN SECTION 403(1)(C)

5(e)(1) The Commissioner shall determine that part of the entitlement of each local educational agency, for each fiscal year ending prior to July 1, 1978, which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on, property which is described in section 403(1)(C).

5(e)(2) No allocation or payment shall be made under paragraph (2) of subsection (c) with respect to that part of any entitlement of any local educational agency which is determined with respect to such agency for such year under paragraph (1). The limitation in this paragraph shall not operate under the last two sentences of subsection (e) to prevent allocations and payments under such paragraph (2).

5(e)(3) The amount of the payment to any local educational agency which is determined with respect to such agency under paragraph (1) shall be used for special programs and projects designed to meet the special educational needs of educationally deprived children from low income families.

USE OF FUNDS PAID WITH RESPECT TO ENTITLEMENTS INCREASED UNDER SECTION 3(d)(2)(C)

5(f) The amount of the payment to any local educational agency for any fiscal year which is attributable to a determination of children for increased payments under subparagraph (C) of section 3(d)(2) shall be used by such agency for special educational programs designed to meet the special educational needs of children with respect to whom such determination is made.

PARENTAL PARTICIPATION RE PAYMENT FOR INDIAN LANDS (SECTION 411(C)(2), PL 92-318)

"(A) The Commissioner shall exercise his authority under section 425 of the General Education Provisions Act to encourage local parental participation with respect to financial assistance under Title I of Public Law 874, 81st Congress, based upon children who reside on, or reside with a parent employed on Indian lands."

"(B) For purposes of this paragraph, the term 'Indian lands' means that property included within the definition of Federal property under clause (A) of section 401(1) of Public Law 874, 81st Congress."

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

Section 6(a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children.

The Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act, and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 2061 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the

Federal Employees Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veteran's Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.). In any case where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

6(b) In any case in which the Commissioner makes such arrangements for the provision of free public education in facilities situated on Federal property, he may also make arrangements for providing free public education in such facilities for children residing in any area adjacent to such property with a parent who during some portion of the fiscal year in which such education is provided, was employed on such property, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) in any case where in the judgment of the Commissioner the need for the provision of such education will not be temporary in duration, that the local educational agency of the school district in which such children reside, or the State educational agency, or both, will make reasonable tuition payments to the Commissioner for the education of such children. Such payments may be made either directly or through deductions from amounts to which the local educational agency is entitled under this title, or both, as may be agreed upon between such agency and the Commissioner. Any amounts paid to the Commissioner by a State or local educational agency pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

6(c) In any case in which the Commissioner makes arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provisions of such education is appropriate to carry out the purposes of this title, and (2) that no local educational agency is able to provide suitable free public education for such children.

6(d) The Commissioner may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal Department or Agency having jurisdiction over the parents of some or all of such children. Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made under this section only for the provision of education in facilities of a local educational agency or in facilities situated on Federal property.

6(e) To the maximum extent practicable, the Commissioner shall limit the total pay- [illegible] ments for educating children within the continental United States, Alaska, or Hawaii, to an amount per pupil which will not exceed the amount he determines to be necessary to provide education comparable to the free public education provided for children in the District of Columbia.

6(f) If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of sections 3 and 4 of this Act. If a local educational agency refuses for any other reason to provide for any fiscal year free public education for children who reside on Federal property which is within the school district of that agency or which, in the determination of the Commissioner, would be within that school district if it were not Federal property, there shall be deducted from any amount to which the local educational agency is otherwise entitled for that year under section 3 or 4 an amount equal to (1) the amount (if any) by which the cost to the Commissioner of providing free public education for that year for each such child exceeds the local contribution rate of that agency for that year, multiplied by (2) the number of such children.

6(g) This section repealed by Section 418 (f)(1) of P.L. 91-230, approved April 13, 1970. See the Revised Section 401(a) (Sec. 422 of P.L. 91-230).

ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

SEC. 7. (a) In any case in which—

7(1)(A) The Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which after August 30, 1965, and prior to October 1, 1978, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to Sections 102(2) and 301 of the Disaster Relief Act of 1974 is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government, or 7(1)(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities of such agency have been destroyed or seriously damaged prior to October 1, 1978, as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and (2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similar purposes with respect to such catastrophe; and if the Commissioner determines with respect to such agency that—

(3) such agency is utilizing or will utilize all State and other financial assistance available to it for the purpose of meeting the cost of providing free public education for the children attending the schools of such agency, but as a result of such disaster it is unable to obtain sufficient funds for such purpose and requires an amount of additional [illegible] one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, and

(4) in the case of any such major disaster to the extent that the operation of private elementary and secondary schools in the school attendance area of such local educational agency has been disrupted or impaired by such disaster, such local educational agency has made provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate: *Provided*, That nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction, the Commissioner may provide to such agency the additional assistance necessary to provide free public education to the children attending the schools of such agency, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest. Such additional assistance may be provided for a period not greater than a five-fiscal-year period beginning with the fiscal year in which it is determined pursuant to clause (1) of this subsection that such agency suffered a disaster. The amount so provided for any fiscal year shall not exceed the amount which the Commissioner determines to be necessary to enable such agency, with the State, local, and other Federal funds available to it for such purpose, to provide a level of education equivalent to that maintained in the schools of such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out the provisions of clause (4) of this subsection. The amount, if any, provided for the second, third, and fourth fiscal years following the fiscal year in which it is so determined that such agency has suffered a disaster shall not exceed 75 per centum, 50 per centum, and 25 per centum, respectively, of the amount so provided for the first fiscal year following such determination.

7(b) In addition to and apart from the funds provided under subsection (a), the Commissioner is authorized to provide to such agency an amount which he determines to be necessary to replace instructional and maintenance supplies, equipment, and materials (including textbooks) destroyed or seriously damaged as a result of such disaster, to make minor repairs, and to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the disaster.

7(c) There is hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to carry out the provisions of this section. Pending such appropriation, the Commissioner is authorized to expend (without regard for subsections (a) and (e) of section 3679 of the Revised Statutes (31 U.S.C. 665)) from any funds appropriated to the Office of Education and at that time available to the Commissioner, such sums as may be necessary for providing immediate assistance under this section. Expenditures pursuant to the preceding sentence shall—

(1) be reported by the Commissioner to the Committees on Appropriations and Education and Labor of the House of Repre-

sentatives and the Committees on Appropriations and Labor and Public Welfare of the Senate within thirty days of the expenditures.

(2) be reimbursed from the appropriations authorized by the first sentence of this subsection.

The report required to the Committees on Appropriations by clause (1) in the preceding sentence shall constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(f)).

7(d) No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with the regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications.

7(e) Amounts paid by the Commissioner to local educational agencies under this section may be paid in advance or by way of reimbursement and in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

TITLE II—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

(Omitted since it does not relate to financial assistance for local educational agencies in areas affected by Federal activities.)

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

(Omitted since such Title is the "Indian Elementary and Secondary School Assistance Act" and does not relate to financial assistance for local educational agencies in areas affected by Federal activities.)

TITLE IV—GENERAL

ADMINISTRATION

Sec. 401(a). **Repealed.** [This section was repealed by Section 438(f)(1) of P.L. 91-230, approved April 13, 1970, and superseded by Section 432 of P.L. 91-230, (20 U.S.C. 1232a) (84 Stat. 169) which reads as follows:

"Sec. 432. No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-first Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instructions, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance."]

401(b) The Commissioner shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

401(c) The Commissioner shall include in this annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursement.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING (SECTION 802, PUBLIC LAW 92-318)

Sec. **802**(a) No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school system, or for the transportation) of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system to school assignments based on geographical zones established without discrimination on account of race, religion, color, or national origin.

Sec. **802**(b). No officer, agent, or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require and local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No other agent or employee or the Department of Health, Education, and Welfare, (including the Office of Education) or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance or travel is so great as to risk the health of the child or significantly impinge on his or her educational process or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

802(c) An 'applicable program means a program to which the General Education Provisions Act applies.

PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING (SECTION 252, PL 93-380)

Sec. 252. Part B of the General Education Provisions Act, amended by title V of this Act, is amended by adding at the end thereof the following new section:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

Sec. 420. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title I of the Act of September 30, 1950 (P.L. 874, 81st Congress), but not including any portion of such funds as are attributable to children counted under subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act."

USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

Sec. 402(a) In carrying out his functions under this Act, the Commissioner is authorized, pursuant to proper agreement with any other Federal department or agency, to utilize the services and facilities of such department or agency, and when he deems it necessary or appropriate, to delegate to any officer or employee thereof the function under section 6 of making arrangements for providing free public education. Payment to cover the cost of such utilization or of carrying out such delegated function shall be made either in advance or by way of reimbursement, as may be provided in such agreement. The last sentence of Section 402(a) repealed by Section 438(c)(1) of P.L. 91-230, approved April 13, 1970, and superseded by Section 421 of P.L. 91-230 (20 Stat. 1231) as redesignated by section 301(A) of P.L. 92-318, approved June 23, 1972 (86 Stat. 336), which reads as follows:

"Sec. 421. (a) The Commissioner is authorized to delegate any of his functions under any applicable program, except the making of regulations and the approval of State plans, to any officer or employee of the Office of Education.

"(b) In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon."

402(c) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may occasion assistance under title I, shall to the maximum extent practicable comply with requests of the Commissioner for information he may require in carrying out the purposes of title I.

402(c) Such portion of the appropriations of any other department or agency for the fiscal year ending June 30, 1951, as the Director of the Bureau of the Budget determines to be available for the same purposes as title I, shall, except to the extent necessary to carry out during such year contracts made prior to the enactment of title I, be transferred to the Commissioner for use by him in carrying out such purposes.

402(d) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the employment of teaching personnel for the provision of free public education for children in any State or for payments to any local educational agency (directly or through the State educational agency) for free public education for children, except that nothing in the foregoing provisions of this subsection shall affect the availability of appropriations for the maintenance and operations of school facilities (1) on Federal property under the control of the Atomic Energy Commission or (2) by the Bureau of Indian Affairs, or the availability of appropriations for the making of payments directed to be made by section 91 of the Atomic Energy Community Act of 1955, as amended, or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U.S.C. sec. 452).

DEFINITIONS

Sec. 403. For the purposes of this Act—

(1) the term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes, which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United State Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D) such term also includes any interest in Federal property (as defined in the foregoing provision of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provision of this paragraph, such term does not include any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services. Real property which qualifies as Federal property under clause (A) of this paragraph shall not lose such qualification because it is used for a low-rent housing project.

(2) The term "child" except as used in title II, means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that for the purposes of title II such term does not include any education provided beyond grade 12.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title II of this Act or title II or III of the Elementary and Secondary Education Act of 1965.

(6)(A) For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands.

(9) The terms "Commissioner of Education" and "Commissioner" means the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 of this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interest in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provisions of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and books, periodicals, documents, and other related materials.

(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education purovided beyond grade 12.

[FR Doc.75-32250 Filed 12-4-75;8:45 am]

Appendix 2-B

federal register

TUESDAY, APRIL 8, 1975
WASHINGTON, D.C.
Volume 40 ■ Number 68
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

SAFA PROGRAMS

School Assistance in Federally Affected Areas

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SCHOOL CONSTRUCTION

Assistance in Cases of Certain Disasters

Notice of proposed rule making was published in the FEDERAL REGISTER on July 25, 1974 at (39 FR 27232) setting forth regulations prescribing certain policies and requirements for criteria in determining the amounts of Federal assistance to local educational agencies in cases of certain disasters, for school construction in areas affected by Federal activities, for current expenditures in areas affected by Federal activities, and for arrangements for education of children where local educational agencies cannot provide suitable free public education as provided for in Public Laws 81-874 and 81-815 (20 U.S.C. 236-241-1, 242-244 and 20 U.S.C. 631-647 respectively.) Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

Pursuant to section 503 of the Education Amendments of 1972 a public hearing was held on August 26, 1974 in Washington, D.C. The following comments were received to which we hereby respond.

Comment. Three comments were received in reference to the second count of federally connected school membership under § 115.3(f) of Part 115. All three commenters read the proposed rule as requiring a second count of federally connected school memberships and criticized this proposal on the ground that much instructional and administrative time would be consumed in the conduct of such a count.

Response. The Office of Education is acutely aware of the many demands upon the time of local educational agencies and has consistently sought to reduce such record-keeping requirements under assistance programs to a minimum. The second count of membership in § 115.3(f) was not intended to be mandatory. It is to be conducted only at the option of the applicant. However, if the applicant does decide to make such a second count, such count must be made in the manner set forth in these regulations. To avoid confusion, language has been added to § 115.3 (e) and (f)(1) to make it clear that the second count of school membership is optional.

Comment. One comment was received which was critical of the publication of the rules related to Pub. L. 81-874 under section 503 of Pub. L. 92-318. It was stated that the proposed rules seem to represent major revisions and additions to the current regulations under these parts, and that such wholesale amendments could not be justified under the aforementioned authority.

Response. While these regulations are more detailed than those previously published under these parts, the additional detail reflects the incorporation into regulatory form of program bulletins and guidelines, clearly within the scope of section 503 of Pub. L. 92-318. Such revisions as are contained in the rules have been made in order to bring the regulations into conformity with present law and do not represent any change, other than minor and technical, in the program implementation of the basic laws.

Other changes. 1. A new paragraph (3)(n) has been added to § 112.1 to indicate that the term "Replacement or restoration of school facilities" includes amounts approved for assuring protection against personal injuries resulting from future disasters. The new paragraph incorporates statutory language of Pub. L. 93-380, section 302(b) amending Pub. L. 81-815, section 16(a).

2. In § 113.3(b)(5) the reference to "buses" in the first sentence has been deleted. A paragraph has been added to prescribe a new method of calculating the amount of Federal assistance available for replacing school buses destroyed or severely damaged by a disaster. This change in the regulation recognizes that it is extremely difficult for local educational agencies to locate suitable used buses to replace those rendered inoperative by a disaster, and that the real cost to such agencies for restoring school bus service is usually the cost of new buses less any reimbursement for those lost or any State subsidy. At present, the limit of Federal assistanse for destroyed or severely damaged buses is the "fair market value" of repair or replacement of each bus damaged or destroyed, less reimbursement for loss. The new provision sets the maximum amount of assistance at actual cost less certain adjustments.

3. A new § 115.27 has been added to provide for the implementation of the "saving clauses" in sections 304(b)(1), 305(b)(2)(A) and 305(b)(2)(B) of Pub. L. 93-380 which relate to Pub. L. 81-874. The new section references the statutory provisions and prescribes the method of computing the basis for eligibility for section 305(b)(2)(B) of Pub. L. 93-380. The basis for the method of computation is the Pub. L. 81-874 section 3 ADA as determined under the regulation for each of the three eligibility periods created by Pub. L. 93-380.

4. References in §§ 114.58(e) and 114.62(c)(2) and in the appended Guidelines, §§ 2.8, 3.3(b)(4) and 3.3(b)(5) to approval or disapproval authority vested in the Regional OE Program Officer have been rewritten. No approval or disapproval authority is vested in such officers under these provisions as rewritten in the instances cited; the Regional OE Program Officer only has authority to review and recommend approval or disapproval of certain aspects of project applications. This change was made in order to bring the regulations and guidelines into conformity with section 403(c)(2) of the General Education Provisions Act, as amended by section 503(c) of the Education Amendments of 1974 (relating to delegations of certain functions to regional offices).

5. The definition of "Parent-pupil survey", as provided in §§ 114.1(r) and 115.3(j), has been partially rewritten to indicate that if a parent of a child claimed as federally-connected, is a parent on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949), there is no requirement that the parent and the child reside together. In the past, the uniformed services clause has been administered in such a manner as to require that the federally-connected child reside with the parent who is on active duty in the uniformed services. The proposed regulations reflected this view in the "parent-pupil survey" form requirements. Under the revised regulations, it will not be necessary to establish whether the child is residing with the uniformed services parent. All that will be required to be ascertained initially will be the name, rank, serial number, and branch of service of such parent. This change has been made because it is now felt that the position most in keeping with the statutory language and the legislative history of the clause is not to impose such requirement.

6. The provision in proposed § 115.51(b) requiring a family moving into housing on Federal property to occupy such housing within 90 days of the beginning of the school term in order to permit the children in such family to attend a "section 6" school has been changed. As revised, the regulation will require only that the family occupy the housing within 90 days of the actual reporting date at the Federal installation. It is believed that the original provision worked unfairly against children whose families moved to a Federal installation in the middle of a school term and could not reasonably be expected to occupy Federal housing within the time period allotted. By providing more of an opportunity for children of Federal personnel transferred during the school year to attend "section 6" schools, the revised rule will cause less of a disruption in the education of such children.

7. In addition to the above, several minor changes have been made to correct clerical errors or to affect technical matters. In the case of the amendments to the regulation described in 2 and 3 above, after deliberation, it has been determined, pursuant to 5 U.S.C. § 553, that inviting comments from the public with respect to such amendments is unnecessary in view of the minor and technical nature of the amendments involved. Moreover, in the case of the amendment described in 2, since the incidence of major disasters cannot be predicted with certainty, it is believed appropriate in the public interest that the amendment should take effect as promptly as possible in order to afford possibly affected school districts the benefits of this broadened form of disaster assistance.

Effective date: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.477, School Construction Assistance in Federally Affected Areas—Construction) and (Catalog of Federal Domestic Assistance Program No. 13.478, School Assistance in Federally Affected Areas—Maintenance and Operation)

Dated: March 12, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: March 31, 1975.

CASPER W. WEINBERGER,
Secretary of Health, Education, and Welfare.

PART 112—SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

Subpart A—Definitions

Sec.
112.1 Definitions.

Subpart B—Financial Assistance

112.2 Eligibility for financial assistance.
112.3 Payments.

Subpart C—Applications

112.8 Applications.
112.10 Determination of priorities among applications.
112.11 Prohibition against payment for religious worship or instruction.

Subpart D—General

112.16 Applicability of General Provisions Regulations.

AUTHORITY: Section 16, (79 Stat. 1158) added to Pub. L. 81-815 (20 U.S.C. 646) as amended, unless otherwise noted.

Subpart A—Definitions

§ 112.1 Definitions.

As used in this part—

(a) "Act" means Pub. L. 815, 81st Congress (64 Stat. 976), as amended, section 16 of which was added by the first section of Pub. L. 89-313 (79 Stat. 1158).

(20 U.S.C. 646)

(b) "Complete application" means a preapplication, Exhibit M-4 of Federal Management Circular 74-7 and such other supplemental information as the Commissioner may request.

(20 U.S.C. 636(b)(1), 646(c))

(c) "Filed" means that all necessary parts of the preapplication or the complete application, as appropriate, bearing the required certification and verifications by the State educational agency, are received by the Commissioner on or before the applicable filing date.

(20 U.S.C. 636(a), (b)(2)(B), (c))

(d) "Initial equipment" means any movable equipment necessary and appropriate to equip school facilities.

(20 U.S.C. 645(9), 646(a))

(e) "Incident period" means those days officially designated by the President or his representative as the dates upon which major disaster damages occurred.

(20 U.S.C. 646)

(f) "Latent damages" means those damages which, in the judgment of the Commissioner, constitute disaster caused damages to school facilities which may not be apparent immediately following the incident period of the disaster.

(20 U.S.C. 646(a))

(g) "Local educational agency" as used in this part is defined in sections 15(11) and 16(a)(1)(A) of the Act. If the local education agency as so defined does not have the responsibility for providing school facilities, and that responsibility is vested in a State, county, city, or town agency, then the term shall include such an agency, together with the agency having exclusive administrative control and direction of other phases of free public education.

(20 U.S.C. 645(11), 646(a)(1)(A))

(h) "Major disaster area" means an area which is determined, pursuant to sections 102(2) and 301 of the Disaster Relief Act of 1974 to have suffered, after August 30, 1965, a major disaster as a result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government. That certification which is required by section 301 of the Disaster Relief Act of 1974 by the Governor of the State in which such an area is located (relating the need for disaster assistance in that area and providing assurance of the expenditure of a reasonable amount of the funds of the government of that State, or of a political subdivision thereof) will be accepted to meet the certification requirement contained in section 16(a)(2) of the Act, if it contains sufficient information to meet the purposes of that section.

(20 U.S.C. 646(a)(1)(A), (a)(2), 1224(c); 42 U.S.C. 4402(1))

(i) "Member" of a school shall be determined in accordance with State law or regulation. In the absence of State law or regulation, such a member is a child who has presented himself at school and has been placed on the current roll. Such a child shall be considered a member from the date of enrollment until he permanently leaves the school. Permanent leaving shall be determined under State rules if such are applicable, but the date of permanent withdrawal shall be the date on which it is officially known that the pupil has left school, and not necessarily the first day after the date of last attendance. Notwithstanding the above, if contracts to make tuition payments with regard to certain children are utilized, then membership shall be determined in accordance with the provisions of section 15(5) of the Act.

(20 U.S.C. 645(5))

(j) "Membership" means the sum of members of a school as defined in § 112.1(i).

(20 U.S.C. 645(5))

(k) "Minimum school facilities" means the lesser of either (1) or (2): (1) Those school facilities necessary (i) to operate a program of free public education for the membership of the applicant at normal capacity in accordance with the laws and customs of the State, plus (ii) to serve, in the facilities of such agency, those children referred to in section 16(a)(5)(B) of the Act, or

(2) Those school facilities which (i) existed prior to the disaster (limited, however, to replacement of such areas in like-kind), plus (ii) are necessary to serve, in the facilities of such agency, those children referred to in section 16(a)(5)(B) of the Act.

(3) Such term does not include (i) athletic stadiums or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public; or (ii) interests in land and off site improvements.

(4) Such term may include an auditorium or gymnasium, or both, if justified by the size of the school's enrollment, the educational program to be conducted and the standards and practices in the State. Such facilities may provide seating only for the capacity of the student enrollment.

(5) Air conditioning may be provided to replace any air conditioning which existed prior to the disaster. If no such air conditioning existed prior to the disaster, then it may be provided as minimum school facilities in all States which are in whole or in part south of the 39° parallel, provided a letter is obtained from the authorized representative of the State that air conditioning is being provided in school facilities currently being constructed solely with State and local funds. Such air conditioning may be provided in any other State only if such letter is obtained and supported by a survey which substantiates that air conditioning is provided in a majority of recently constructed school facilities within the State.

(20 U.S.C. 645 (9), (10), 646(a)(5))

(l) "Normal capacity" of a schoolroom means the number of pupil stations which the room accommodates under ordinary conditions in accordance with the laws and customs of the State governing free public education.

(20 U.S.C. 646(a))

(m) "Preapplication" means Exhibit M-1 of FMC 74-7 and such supplemental information as may be requested by the Commissioner.

(20 U.S.C. 646(c))

(n) "Replacement or restoration of school facilities" means the reconstruction of school facilities on the existing foundation and the making of substantial structural repairs to school facilities which were seriously damaged or destroyed.

(1) Such term does not include the making of urgent repairs to protect the school facilities from further damage or deterioration or to render the school fa-

cilities immediately available for the providing of free public education.

(2) Such term includes reasonable expenditures in order to avoid or reduce future flood losses (including relocation), in accordance with Executive Order 11296. The reasonableness of such expenditures will be determined by the Commissioner on an individual basis, based upon such factors as (i) a comparison of such expenditures with the cost of restoring or replacing the facility excluding such expenditures, (ii) the probable consequence of a failure to make such expenditures, and (iii) comparative cost of alternative methods of avoiding or reducing future flood losses.

(3) Such term includes such additional amounts that the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster.

(20 U.S.C. 646(a); E.O. 11296, 88 Stat. 522)

(o) "Replacement of area in like-kind" means the cost of replacing or restoring the total area of the facility seriously damaged or destroyed which was in use at the time of the disaster with a similar permanent or temporary facility. Permanent school facilities include those facilities which are erected or constructed on the site for school purposes, affixed to the site and which have a utilization period of not less than 20 years from the date of being so affixed. Temporary school facilities means all other school facilities, including those facilities which (1) may be classified as portable, relocatable, demountable, mobile trailers or frame structures and (2) are moved onto the site for an indefinite period. An applicant may use the amount estimated as necessary to replace or restore temporary facilities to instead construct permanent facilities.

(20 U.S.C. 646(a))

(p) "Seriously damaged" means that a school facility, structure or a portion thereof has been rendered unusable or partly unusable for school purposes for an extended period of time.

(20 U.S.C. 646(a) (1), (3))

(q) "School facilities" includes such facilities as defined in section 15(9) of the Act. Such term includes only such facilities which (1) were in use prior to the occurrence of a major disaster, including classrooms and related facilities; (2) are newly constructed facilities which the applicant accepted from the builder as being completed, and (3) are facilities for the replacement or restoration of which the local educational agency or public agency is legally responsible under the State law.

(20 U.S.C. 645 (9), (10), 646(a) (1), (3), (4))

(r) "Total square feet of floor area" means the sum of square feet of a facility in use for school purposes at the time of the disaster from the exterior wall surface to exterior wall surface, at the respective floor levels.

(20 U.S.C. 646(a))

Subpart B—Financial Assistance

§ 112.2 Eligibility for financial assistance.

(a) Eligibility for financial assistance will be determined in accordance with the provisions of the Act, and section 7(a)(4) of Pub. L. 81-874.

(20 U.S.C. 241-1(a)(4), 646(a)(6))

(b) In all cases determined pursuant to clause (a)(1)(A) of section 16, if the Commissioner finds that funds other than Federal funds will, in the near future, become available to the local educational agency specifically for the purpose of providing school construction assistance in cases of such disasters, then Federal financial assistance may, to the extent that such funds are to become so available, be in the form of a repayable advance subject to repayment, without interest, when available.

(20 U.S.C. 646(a))

(c) Factors which the Commissioner will consider when determining whether damages require restoration or replacement under section 16 of the Act (as contrasted with minor repairs authorized under section 7(b) of Pub. L. 81-874 (20 U.S.C. 241-1) include the following:

(1) The ratio of section 16 funds available to the total estimated cost of replacement or restoration of destroyed or seriously damaged facility;

(2) The speed at which such replacement or restoration may be accomplished with the local, State, and Federal funds available;

(3) Whether the remaining structure must be razed before replacement or restoration can commence;

(4) Whether the applicant intends to rebuild on another site;

(5) Whether the applicant plans restoration which will differ significantly from the original design of the structure that was damaged;

(6) Whether the applicant plans to use the amount estimated as necessary to repair or restore the damaged facility to construct additional square footage rather than to repair the damaged facilities; and

(7) Whether an insurance settlement is made on the basis of major structural damage to the facility.

(d) Federal financial assistance under section 16 of the Act will be limited to the amount deemed by the Commissioner to be necessary as additional assistance (after considering practicably available local, State or Federal resources) in order for the local educational agency to provide for the replacement or restoration of minimum school facilities destroyed or seriously damaged as a result of a major disaster:

(1) When such a school facility is seriously damaged but not destroyed, financial assistance under this section will be limited to the lesser of the following costs, as determined by the Commissioner:

(i) The cost of restoring the facility on the same foundation on the same site; or

(ii) The cost of replacing the facility on the same site or a new site;

(2) When such a school facility is destroyed, financial assistance under this section may be provided to replace the facility, at the existing site or at a new site, whichever costs, as determined by the Commissioner, will be the lesser;

(3) Costs for replacement or restoration may include, if appropriate, the cost of demolition of all or part of the affected portion of the seriously damaged or destroyed facility and the cost of replacement, with public school facilities, of those minimum private elementary or secondary school facilities which were destroyed and which will not be replaced.

(e) Assistance will be provided under section 16 of the Act only if the Commissioner, after consultation with appropriate State and local educational agencies, finds that the replacement or restoration of the seriously damaged or destroyed school facilities (1) would not be inconsistent with overall State plans with respect to the construction of school facilities; and (2) includes such reasonable steps as may be desirable to minimize future Federal expenditures for flood protection and flood disaster relief in accordance with Executive Order 11296.

(20 U.S.C. 646(c); E.O. 11296)

(f) Federal financial assistance provided under section 16 of the Act (as being necessary to enable the local educational agency to provide the needed minimum school facilities), will not exceed (1) the total needed to pay for the costs of construction incident to the replacement or restoration of school facilities destroyed or seriously damaged as a result of a major disaster, and (2) the amount needed to provide the minimum school facilities needed to serve, in the facilities of said agency, children who but for the serious damage to or destruction of private facilities would be served by said private facilities (less all amounts available to the applicant specifically for such a purpose from local, State, other Federal sources, and from the proceeds of insurance on the school facilities destroyed or seriously damaged as a result of the major disaster). The applicant will be expected to prosecute insurance claims promptly and to the full legal limit. It is not necessary to replace facilities destroyed or seriously damaged with identical facilities, provided that the replacement facility constitutes replacement of area in like-kind with minimum school facilities.

(20 U.S.C. 646(a))

(g) Funds available for replacement or restoration of school facilities destroyed or seriously damaged as a result of a major disaster include:

(1) All unobligated or unencumbered non-Federal funds which the Commissioner determines have been set aside in the nature of an insurance reserve for the purpose of replacing or restoring those school facilities of the applicant that are destroyed or seriously damaged; and

(2) The proceeds of bonds that have been voted specifically for the replacement of a school facility which is destroyed or seriously damaged.

(3) If funds described in (g)(1) or (g)(2) of this section are not immediately available, the Commissioner may provide assistance in the form of an advance to be repaid, without interest, from such proceeds when they become available as determined by the Commissioner.

(20 U.S.C. 646(a) (4), (5))

(h) The school facility so provided must be functional and not elaborate in design or extravagant in the use of materials in comparison with school facilities of a similar type constructed in the State within recent years. All replacement or restoration work must be undertaken in an economical manner.

(20 U.S.C. 646(a)(4), (c))

(i) All determinations made by the Commissioner under this part shall be made only after consultation with the appropriate State educational agency and local educational agency.

(20 U.S.C. 646(c))

§ 112.3 Payments.

(a) Payments to an applicant in a major disaster area under section 16 of the Act will be made only on the basis of a complete application which satisfies the conditions for payment prescribed by section 16 of the Act and the regulations in this part.

(b) Upon approval of the complete application of a local educational agency under section 16 of the Act, the Commissioner may pay to such agency an amount equal to 10 per centum of the estimated cost of the construction incident to the replacement or restoration of the school facilities destroyed or seriously damaged as a result of a major disaster.

(c) No construction contract exceeding the estimated cost as shown in the project application shall be entered into without prior approval.

(20 U.S.C. 636(b)(1), 646 (a), (c), (d), 1232(c))

Subpart C—Applications

§ 112.8 Applications.

(a) Federal financial assistance under section 16 of the Act will be provided on the basis of a complete application which is filed by an applicant, and which sets forth the basis for eligibility for such assistance and identifies the project or projects for which such assistance is requested.

(b) A preapplication must be filed with the Commissioner through the appropriate State educational agency on or before 90 days following that date on which the area in which the local educational agency is, in whole or in part, located is designated as being within a major disaster area except that whenever such date falls on a Saturday, Sunday or Federal holiday, the final day for filing the application shall be the next succeeding business day. The complete application must be filed with the Commissioner within 90 days of the notice of preapplication review action. In the event that necessary decision-making processes at local and State levels prevent the filing of a preapplication by the applicable filing date, a "letter of intent" to file a preapplication within 180 days and a complete application within 360 days after the occurrence of the disaster must be filed with the Commissioner.

(20 U.S.C. 636(b)(1), 646(c))

§ 112.10 Determination of priorities among applications.

(a) The Commissioner will determine the order of priority for all applications involving the replacement or restoration of school facilities, the destruction of or serious damage to which requires the relocation of students. Such applications of all local educational agencies will be assigned priorities in descending order on the basis of the percentage, that the total number of children in the school district who are so relocated (after deducting the number of children within the local educational agency who were considered in connection with another such priority with respect to the same disaster) bears to the total memberships of all schools in the school district. Such membership will be determined on the basis of the latest and best information available. For the purpose of this section, the number of children reported as requiring relocation must include the number of children displaced from private schools as a result of the major disaster who are to be served by the local educational agency and who, but for the destruction of the private school facilities, would be served by the private facilities.

(b) All other applications for the replacement or restoration of school facilities destroyed or seriously damaged as a result of a major disaster will be assigned priorities lower than the priorities assigned under paragraph (a) of this section. Priorities will be assigned to school facilities under this paragraph (b) on the basis of the amount of financial assistance requested, and estimated by the Commissioner to be reasonable in amount, in comparison with the unused bond sale capacity for public school facilities available to the school district in which the school facility to be restored or replaced was located. The unused bond sale capacity will be computed on the basis of facts as of the date of the determination of the disaster. Such applications of all local educational agencies will be assigned priorities in descending order on the basis of the percentage that the amount of the financial assistance so determined with respect to all such applications (after deducting the amount of such financial assistance under such applications previously assigned to priority in accordance with the order of their consideration that is specified by the local education agency) bears to the unused bond sale capacity available to the school district in which the school facility to be restored or replaced was located.

(20 U.S.C. 646 (b), (c))

§ 112.11 Prohibition against payment for religious worship or instruction.

Nothing contained in the Act or the regulations in this part shall be construed to authorize the use of payments made under the Act for religious worship or instruction.

(20 U.S.C. 646(a)(6); 241-1(a)(4))

Subpart D—General

§ 112.16 Applicability of general provisions regulations.

(a) Provisions contained in Parts 100 and 100a of the regulations entitled "General Provisions for Office of Education Programs" are applicable to programs conducted under the Act, with the following exceptions:

(1) Section 100a.26(b) (Criteria for review of applications);

(2) Section 100a.161 (Title to site);

(3) Subpart L, §§ 100a.209–220 (Property management requirements);

(4) Section 100a.233 (Sale of real and personal property); and

(5) Section 100a.235 (Other program income).

(b) It should be noted that certain of the provisions in such regulations are not, by their own terms, pertinent to activities which may be conducted pursuant to the Act, such as:

(1) Section 100a.19 (Cooperative arrangements);

(2) Section 100a.43 (Application for Federal assistance (nonconstruction projects));

(3) Section 100a.45 (Application for Federal assistance (short form));

(4) Section 100a.62 (Payment methods for nonconstruction projects);

(5) Section 100a.82 (Institutions of higher education);

(6) Section 100a.83 (Nonprofit organizations);

(7) Subpart H, §§ 100a.90–94 (Matching and cost sharing);

(8) Section 100a.122 (Loan guarantees);

(9) Section 100a.234 (Royalties); and

(10) Section 100a.258 (Leasing facilities).

PART 113—ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

Subpart A—Definitions

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113.1 Definitions.

Subpart B—Financial Assistance in Areas Affected by Major Disasters

113.2 Financial assistance for providing free public education pursuant to section 7(a) of the Act.
113.3 Assistance for the replacement of supplies, equipment, and for leasing of facilities pursuant to section 7(b) of the Act.

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113.8 Applications.
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113.18 Application of General Provisions Regulations.

AUTHORITY: Sec. 7 of Pub. L. 81-874, as amended, 79 Stat. 1158 (20 U.S.C. 241-1), unless otherwise noted.

Subpart A—Definitions

§ 113.1 Definitions.

As used in this part—

(a) "Act" means Pub. L. 874, 81st Congress (64 Stat. 1100), as amended, section 7 of which was first added by Pub. L. 89-313 (79 Stat. 1159).

(20 U.S.C. 241-1)

(b) "Average daily attendance," hereinafter referred to as "ADA," means ADA as determined in accordance with State law except (notwithstanding any other provisions of the Act), where the local educational agency in which a child resides makes or contracts to make tuition payment for free public education of such a child in a school situated in another local educational agency. For the purposes of section 7 of the Act, plus the attendance of such a child at such school shall be considered (1) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (2) not to be attendance at a school of the local educational agency receiving such titution payment or entitled to receive such payment under the contract.

(20 U.S.C. 241-1(a), 244(10))

(c) "Complete application" means an application and such other supplemental information as the Commissioner may request.

(20 U.S.C. 241-1(d))

(d) "Disaster review team" means a group comprised of representatives of the Office of Education, Office of Facilities Engineering and Property Management, (DHEW), the State educational agency (when available) and local educational agencies.

(20 U.S.C. 241-1(a))

(e) "Filed" means that all necessary parts of the complete application bearing the required certification and verifications by the State educational agency are received by the Commissioner on or before the applicable filing date.

(20 U.S.C. 241-1(d))

(f) "Incident period" means those days officially designated by the President or his representative as the dates upon which major disaster damages occurred.

(20 U.S.C. 241-1)

(g) "Latent damages" means those damages which, in the judgment of the Commissioner, constitute disaster-caused damages to instructional and maintenance supplies, equipment, materials, and school facilities which damages may not be apparent immediately following the incident period of the disaster.

(20 U.S.C. 241-1(b))

(h) "Local educational agency" is defined in sections 403(6)(A) and 7(a)(1)(A) of the Act.

(20 U.S.C. 244(6)(A), 241-1(a)(1)(A))

(i) "Major disaster area" means an area which is determined, pursuant to sections 102(a) and 301 of the Disaster Relief Act of 1974 to have suffered, after August 30, 1965, a major disaster as a result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government. That certification which section 301 of the Disaster Relief Act of 1974 requires from the Governor of the State in which such area is located (of the need for disaster assistance in such area and the assurance of the expenditure of a reasonable amount of the funds of the government of that State, or of any political subdivision thereof) will also be deemed to meet the certification requirement contained in section 7(a)(2) of the Act.

(20 U.S.C. 241-1(a)(1)(A), (a)(2); 86 U.S.C. 1748)

(j) "Minor repairs" means that restoration of equipment, materials, and portions of school and cafeteria facilities (including site, grading, and improvements) to original condition or efficiency from a disaster-damaged condition and which restoration is immediately necessary and may be accomplished within a reasonably short period of time.

(20 U.S.C. 241-1(b), 244 (13))

(k) "School facilities" as used in this part is defined in the Act at section 403 (13). Data must be submitted, if available, to the Commissioner to substantiate that gymnasiums and similar facilities are not intended primarily for exhibitions for which admission is to be charged to the general public, if assistance is requested with regard to such facilities. Such facilities may include cafeteria facilities.

(20 U.S.C. 244(13))

(l) "State financial assistance" (or "State aid") with respect to free public education means any contribution, for which no repayment is expected, made by a State to or on behalf of a local educational agency within the State for the support of free public education. Such assistance does not include those payments by a State to or on behalf of a local educational agency which are made as a result of a major disaster.

(20 U.S.C. 241-1(a)(3), 240(d)(2))

Subpart B—Financial Assistance in Areas Affected by Major Disasters

§ 113.2 Financial assistance for providing free public education pursuant to section 7(a) of the Act.

(a) The Commissioner will, upon receipt of a complete application under section 7(a) and approval thereof, provide financial assistance, in amounts calculated pursuant to section 7(a) and § 113.2(c). Such assistance shall commence with the fiscal year in which the determination is published in the FEDERAL REGISTER that the local educational agency suffered a disaster or with the fiscal year in which the disaster-causing incident in the local educational agency terminated, whichever is later.

(b) Such assistance may be continued for as many as four additional consecutive fiscal years after the fiscal year of commencement, as described in the preceding paragraph, on the basis of complete applications approved during each fiscal year for which assistance is to be paid. Thus, there is a maximum of five fiscal years for which assistance may be paid under section 7(a) with respect to a particular disaster. The amount of such Federal financial assistance for providing free public education at a preexisting level shall not exceed 75 percent during the third of such fiscal years, 50 percent during the fourth and 25 percent during the fifth, of the amount of assistance paid under section 7(a) for the second fiscal year of such five-year period.

(c) The amount of financial assistance so provided by the Commissioner to the agency for use during any fiscal year will not exceed the amount which the Commissioner determines to be necessary to enable such an agency, with the other funds available to it for such a purpose, to provide a level of education equivalent to: (1) That maintained in the schools at such agency prior to the occurrence of such disaster, taking into account the additional costs reasonably necessary to carry out section 7(a)(4) of the Act, or (2) that are required to meet the budgeted or actual current operating expenditures, whichever is lesser.

(d) The amount of unobligated cash carryover for current operating expenditures to the fiscal year of the disaster (from the fiscal year prior to the disaster) will not be considered to be revenue available unless such carryover exceeds ten percent of the amount budgeted for current operating expenditures in the fiscal year of the disaster. When a carryover balance does not exist or a deficit balance exists, the creation of a carryover balance in subsequent fiscal years will not be considered a cost for purposes of determining Federal assistance under section 7(a).

(20 U.S.C. 241-1(a))

§ 113.3 Assistance for the replacement of supplies, equipment, and materials for minor repairs and for the leasing of facilities pursuant to section 7(b) of the Act.

(a) The Commissioner will provide an amount of assistance which he determines, on the basis of a complete application filed for assistance under section 7(b) of the Act to a local educational agency which is eligible for assistance pursuant to section 7(a) of the Act (following the inspection by the disaster review team and the issuance of a provisional authorization), that the following activities are necessary:

(1) To replace instructional and maintenance supplies, equipment and materials (including textbooks), whether or not acquired through the use in whole or in part of Federal funds made available under other programs, which have been destroyed or seriously damaged as a result of a major disaster and which will not be replaced by other Federal programs,

(2) To make minor repairs (as defined in § 113.1(j)), and

(3) To lease or otherwise provide (other than by the acquisition of land or the erection of buildings) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of the major disaster. Such lease or provision may not include gymnasiums and similar facilities intended primarily for exhibitions for which admission is charged to the general public or which have (i) outdoor seating in excess of the total number of pupils enrolled in the school of the system, (ii) ticket booths or stands, and (iii) lighting stands, fixtures, etc., for nighttime events.

(b) Amounts necessary for activities described under § 113.3(a) may include reasonable expenditures for:

(1) *Preventive work.* If an applicant incurs expenditures in order to prevent disaster damage (such as expenditures to keep drains clean, build dikes to divert water from washing out playgrounds), assistance may be authorized if (i) the work is done immediately before and in anticipation of the disaster, or during the disaster, (ii) the work is done on or immediately adjacent to the school site, and (iii) the work is restricted to that which the Commissioner determines could reasonably have been expected to prevent further disaster damage.

(2) *Use of applicant-owned equipment.* When an applicant owns heavy equipment which is suitable to repair major disaster damage (including debris removal, and site redevelopment) and uses such equipment to make necessary repairs, assistance may be authorized for the cost of the use of its equipment to repair eligible major disaster damage, at the pre-disaster rental rate for similar equipment in the area. Applications for reimbursement for the use of such applicant-owned equipment to repair eligible major disater damage must be supported by documentation for each piece of equipment including:

(i) Type and description of equipment;

(ii) Number of hours used each specific day;

(iii) Total hours used;

(iv) Description of location and work on which equipment was used; and

(v) Data substantiating pre-disaster rental rate for similar equipment in the same area.

(3) *Payment for work performed by applicant's maintenance employees.* When an applicant uses maintenance employees during their regularly scheduled work hours for the repair of disaster caused damage, or to take action designed to prevent more extensive damage, assistance may be authorized for such work for the time during which the employees would otherwise have worked at regularly scheduled school maintenance work had there been no disaster. Additional assistance may also be authorized for overtime payments to such overtime employees for the maintenance, repair, or arrest of disaster-caused damages. All assistance for payment of applicant's employees will be based on the prior policy and practice of the applicant, including wage rates, in the payment of such employees.

(4) *Utilities.* Assistance may be authorized for the cost of utilities in temporary or leased facilities, including the necessary installation costs.

(5) *Replacement of equipment.* Assistance may be authorized at the fair market value for the repair or replacement of equipment (including vehicles such as automobiles, trucks and tractors). Assistance may be authorized for replacing, rather than repairing nontubular furniture of metal construction which has been submerged in salt water and for replacing rather than repairing furniture of tubular construction which has been submerged in fresh water. However, assistance for replacement costs of disaster damaged equipment which an applicant has obtained as surplus property and which was selected and procured on a basis other than its being essential to school operation will be based upon the out-of-pocket cost to the applicant at the time of acquisition. The amount of Federal major disaster assistance with reference to the repair or replacement of seriously damaged or destroyed school buses used in the daily transportation of pupils shall be determined after examination of the State transportation assistance program to establish the amount, if any, of such State assistance attributable to those buses which were seriously damaged or destroyed. Federal aid shall be limited to the actual cost of repair or replacement of those buses seriously damaged or destroyed less such State transportation assistance, insurance proceeds, and salvage or trade-in value payable on such school buses.

(6) *Off-site work.* Assistance may be authorized for emergency provision of off-site repairs to permit access to school facilities when consistent with State law, provided that such work may not be done legally or expeditiously by another local governmental unit.

(7) *Trees, shrubs and seeding.* When trees and shrubbery have been lost or have been so badly damaged as to require replacement, assistance may be authorized for their replacement with trees and shrubs of like type, but not to exceed the cost of the size customarily used for new plantings on the sites of newly constructed school facilities within the State.

(8) *Architectural and engineering fees.* Assistance for architectural and engineering fees which are related to authorized minor repairs or replacements may be authorized. The amount of such reimbursement shall not exceed the usual rate applicable in the State for similar work.

(9) *Damage of school facilities during replacement.* If a school facility suffers disaster damage while under construction or renovation, assistance may be authorized only to the extent that the applicant satisfies the Commissioner that insurance proceeds are not available for the necessary repair or replacement. However, if the applicant was in the process of taking formal action at the time of the disaster to replace temporary, or obsolete school facilities with other facilities, no assistance will be authorized for the temporary or obsolete facilities.

(10) *Damages to school facilities during major disaster recovery.* Assistance may be authorized for minor repairs of school facilities (including paving and turf) which must be damaged in order to reestablish school operations. However, assistance will not be authorized to compensate for the use of such school facilities in an activity for which the school authorities are not responsible (including their use as a refugee center, for quartering the National Guard, or for a National Guard motor or equipment pool).

(11) *Administrative expenses.* Assistance may be authorized for expenses identified as overtime payments to regular applicant employees or for pay to extra clerical help hired specifically to: (i) Develop and maintain data to substantiate and support disaster repair, replacement and related expenses, or (ii) to maintain adequate and efficient records concerning the use of disaster assistance. Assistance will not be authorized for salaries, wages, and expenses of regularly employed administrative personnel who are engaged, during regularly scheduled school hours, in disaster recovery work or work necessary to develop a determination of the extent of disaster damages or to complete and file disaster applications.

(12) *Temporary facilities.* (i) Assistance may be authorized to lease or otherwise provide (other than by acquisition of land or erection of facilities) school and cafeteria facilities needed to replace temporarily such facilities which have been made unavailable as a result of a disaster when the applicant assures the Commissioner that existing available school facilities within the district cannot reasonably accommodate pupils left unhoused by the disaster.

(ii) If appropriate private or public structures are available to the applicant, they may be leased for the period of time necessary to restore or replace permanent school facilities. Modifications and improvements necessary to permit such structures to accommodate an educational program should be performed by the owner of the facilities, and the resultant costs may be included in the basic monthly or annual fee for leasing the facilities. Furthermore, any expenses required at the end of the lease period to convert back to noneducational uses should be anticipated and may be included in the leasing fee. In the event that sufficient temporary instructional space may not reasonably be available in existing school facilities or in other public or private structures to accommodate, temporarily, all unhoused pupils, the local education agency may arrange to lease or purchase, whichever cost is the lesser, temporary portable school facilities. Temporary portable facilities may be leased for the period of time that it takes to replace or restore the destroyed facilities, provided that replacement or restoration is pursued with reasonable expediency. It will be the responsibility of the local educational agency to ascertain that such temporary facilities are used in accordance with State and local building laws and policies which may affect such temporary facilities.

(12) Funds may be provided to local educational agencies to purchase temporary facilities when purchasing is financially advantageous to the United States. The local educational agency is required to agree to advertise and sell, in accordance with State or local policies and procedures, the temporary facilities after the damaged facilities have been restored or replaced. The proceeds of the sale are to be remitted to the U.S. Office of Education.

(13) *Equipment for temporary facilities.* If temporary facilities are provided to a local education agency or if permanent facilities are provided pursuant to section 16 of Pub. L. 81-815, assistance may be authorized for that equipment necessary for the operation of temporary facilities. Such equipment may be provided only if prior approval of the Commissioner is obtained. Notification of such approval will be attached to the notice of preapplication review action.

(14) *Insurance on relocatable classroom units.* The owner or lessor of relocatable classroom units shall be responsible for maintaining fire and extended coverage insurance on such relocatable units at its cost for the full insurable value thereof. The lessor should include such expense within his bid quotation, if necessary. If temporary units are purchased rather than leased, the applicant must maintain fire and extended coverage to replace any temporary units in the event that they are destroyed by fire or other catastrophe. Assistance may be authorized for such insurance.

(20 U.S.C. 241-1(a)-(b))

Subpart C—Applications

§ 113.8 Applications.

Prior to receiving benefits under section 7 of the Act, a local educational agency located in whole or in part in a major disaster area must file with the Commissioner a complete application for such financial assistance on forms prescribed by the Commissioner setting forth the need for such benefits under each pertinent subsection of the Act. Separate complete applications must be filed for assistance under sections 7(a) and 7(b) of the Act.

(a) An approved application for financial assistance under section 7(a) of the Act shall apply only to such financial assistance for providing free public education until the end of the fiscal year in which the application is approved.

(b) An approved application under section 7(b) of the Act shall apply to any expenditures made during a reasonable period of time with respect to those items which are covered by the application. An application that is appropriately made under section 7(b) of the Act will be applicable retroactively for eligible expenditures made immediately prior to, during or subsequent to the incident period of the major disaster occasioning the expenditure.

(20 U.S.C. 241-1 (a), (b))

§ 113.9 Dates for filing applications.

(a) A complete application for benefits under section 7 of the Act must be filed on or before 90 days following the date on which the determination is published in the FEDERAL REGISTER that the area in which the applicant is located, in whole or in part, is a major disaster area, except that, whenever the expiration of such time shall fall on a nonbusiness day for Federal offices, the final date for filing applications shall be the next succeeding business day.

(b) An initial application or a notice of intent to file such an application within the fiscal year for financial assistance benefits under section 7(a) must be filed on or before 90 days following the date on which the determination is published in the FEDERAL REGISTER that the area in which the application is located, in whole or in part, is a major disaster area, except that, whenever such date shall fall on a nonbusiness day for Federal offices, the final date for filing applications shall be the next succeeding business day. A complete application for financial assistance for benefits under section 7(a) for each fiscal year subsequent to that covered by the initial application must be filed by January 31 in the fiscal year following the last such initial application.

(c) The applicant is responsible for obtaining the appropriate certification of the State educational agency and for securing transmittal of the application to the Commissioner.

(20 U.S.C. 241-1)

§ 113.10 Notification to applicants.

The Commissioner will notify each applicant of the results of the review of its application. A notice of application review action will be sent to the applicant which, in appropriate instances, will describe the estimated amount of any payments to be made with respect to assistance in the cost of providing free public education, including assistance with respect to the making of minor repairs of school facilities, and the cost of replacing destroyed or seriously damaged instructional and maintenance supplies, equipment and materials (including textbooks), and of leasing or otherwise providing school or cafeteria facilities as temporary replacements.

(20 U.S.C. 241-1(a)-(b))

§ 113.11 Reports.

(a) *Reports required.* Each applicant shall submit required reports and information on such forms as the Commissioner may reasonably require concerning (1) destruction of and damage to school facilities and instructional and maintenance supplies, equipment, and materials (including textbooks), (2) payments made with respect thereto, as well as payments made to continue to provide free public education at a preexisting level, and to lease or otherwise provide school and cafeteria facilities as temporary replacements, for which benefits are sought under section 7 of the Act.

(b) *Final reports.* Each applicant whose application is approved shall submit to the Commissioner final reports concerning payments made the applicant for which benefits are sought under section 7. Final reports shall be submitted promptly with respect to section 7 as follows:

(1) Final reports with respect to the assistance under section 7(a), and final reports with respect to the cost of leasing school and cafeteria facilities as temporary replacements under section 7(b), shall be submitted to the Commissioner with respect to each fiscal year no later than September 30 following the close of the fiscal year for which the report is made.

(2) Final reports with respect to assistance under section 7(b), except final reports with respect to the cost of leasing school and cafeteria facilities as temporary replacements, shall be submitted to the Commissioner after the applicant has made final payment for approved expenditures and has received final insurance adjustments and all other funds, but in no event later than 90 days following the first anniversary date of the disaster, unless the applicant makes written request, showing good cause, for extension of time for submitting such final report and such date is extended in writing by the Commissioner.

(c) *Excessive payments.* The Commissioner may disallow any portion of the amounts requested which are determined by him not to be necessary for the intended purpose or not to be eligible for benefits under section 7 of the Act. If, after the date for filing a final report, an applicant is found to have received amounts in excess of the amounts to which it is entitled under section 7 of the Act for a given fiscal year, as determined by the Commissioner, an amount equal to the excess may be taken into consideration in determining the amounts to be subsequently certified for payment to the applicant for the current or any subsequent fiscal year. Where no subsequent payments are due, the applicant will be required to remit such excess to the Commissioner.

(20 U.S.C. 241-1(e))

§ 113.12 Inadequacy of Federal funds.

(a) If appropriated funds are inadequate to pay in full the requests contained in all approvable applications filed within the ninety (90) day filing period, the Commissioner will establish an order of priority for the approval of such applications. In determining the order in which such applications will be approved, the Commissioner will consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications.

(b) Priority among approvable applications filed within the 90-day filing period will be determined as follows: A priority will be determined among applications in descending order, by ascertaining the percentage that the total Federal funds for which each applicant is estimated by the Commissioner to be eligible under the Act is of the total current operating costs of that applicant as estimated by the Commissioner, including the increased costs due to the major disaster.

(20 U.S.C. 241-1(d).)

§ 113.13 Method of payment.

The Commissioner may pay in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, and in such installments as he may determine, the amounts due to a local educational agency pursuant to the provisions of section 7 of the Act.

(20 U.S.C. 241-1(e), 1232c)

§ 113.14 Prohibition on payment for religious worship or instruction.

Nothing contained in the Act or in this part shall be construed to authorize the use of any payment made thereunder for religious worship or instruction.

(20 U.S.C. 241-1(a)(4).)

§ 113.18 Applicability of General Provisions Regulations.

(a) Provisions contained in Parts 100 and 100a of the regulations entitled "General Provisions for Office of Education Programs" are applicable to programs conducted under the Act, with the following exceptions:

(1) Section 100a.26(b)_ (Criteria for review of applications);

(2) Section 100a.31 (Preapplications);

(3) Subpart L, §§ 100a.209–220 (Property management requirements); and

(4) Section 100a.238 (Other program income).

(b) It should be noted that certain of the provisions in such regulations are not, by their own terms, pertinent to activities which may be conducted pursuant to the Act, such as:

(1) Section 100a.19 (Cooperative arrangements);

(2) Section 100a.44 (Application for Federal assistance) (Construction projects);

(3) Section 100a.41 (Preapplication for Federal assistance);

(4) Section 100a.42 (Notice of preapplication review action);

(5) Section 100a.63 (Payment methods for construction projects);

(6) Section 100a.82 (Institutions of higher education);

(7) Section 100a.83 (Nonprofit organizations);

(8) Subpart H, §§ 100a.90–.94 (Matching and Cost Sharing); and

(9) Subpart K, §§ 100a.155–.192 (Construction requirements).

PART 114—ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

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Appendix A—Guidelines

AUTHORITY: Pub. L. 81-815 (school construction in areas affected by Federal activities), as amended, 64 Stat. 967 (20 U.S.C. 631-645), unless otherwise noted.

Subpart A—Definitions

§ 114.1 Definitions.

As used in this part, the term:

(a) "Act" means Pub. L. 815 (except section 16 thereof), 81st Congress (64 Stat. 967), as amended.

(20 U.S.C. 631-645)

(b) "Applicant" means a local educational agency which has filed a complete application for assistance in school construction under the Act and this part.

(20 U.S.C. 633-635(a))

(c) "Attendance area" means, in relation to a particular public school, the geographical area in which the children who are normally served by that school reside. An attendance area for elementary school need not necessarily be coterminous with an attendance area for a secondary school.

(20 U.S.C. 635(e), 644)

(d) "Available and usable school facilities" includes:

(1) *Existing school facilities*. Included are all those facilities for which payments have been made under the Act, and all facilities constructed as school buildings and used continuously for classroom purposes. Excluded are basement rooms, hallways, or other space the use of which for school purposes (in view of their character, inaccessibility or other equally cogent reason) seriously prejudices the educational objective, or has impaired or will impair the health or safety of the school children. Also excluded are facilities which have been abandoned or must be abandoned by the end of the second year following the increase period for which the application is filed. These requirements also apply to buildings owned by other Federal agencies which are available for the education of children counted by applicants under section 14 of the Act.

(2) *Facilities under contract*. Included are all those facilities, including those for which funds have been reserved or approved under the Act, for which construction contracts have been let on or before the contracts-let date. After such date, only that portion of such facilities to be financed with funds reserved or approved under the Act is included.

(3) *Potential facilities*. With respect to sections 8, 14(a) and 14(c) of the Act, all those minimum school facilities which, with full utilization of all practicably available financial resources, could

be provided from local, State, or Federal sources (other than the Act), will be considered as available and usable. Such utilization by the applicant is a condition precedent to Federal assistance under the Act. The estimated capacity of such facilities shall be equal to the total amount of all such resources divided by the most current estimated cost per pupil for providing minimum school facilities in the State. In determining, for purposes of this subparagraph, whether financial resources are practicably available, the amount representing the unused bonding limit in the State but not in excess of 12 percent of its assessed valuation will be considered to be a financial resource practicably available.

(4) *Portable classrooms*. Included are temporary, relocatable, demountable, mobile, trailer, or other such units, but only if:

(i) They have been purchased with funds paid under the Act; or

(ii) The State educational agency by law, regulation, or policy, requires such facilities to be counted as permanent capacity units in the computation of State construction aid.

(20 U.S.C. 634, 640, 644(c), 645(10))

(e) "Average daily membership" (hereinafter referred to as ADM) for any school in any school year means average daily membership as determined in accordance with State law or, in the absence of State law governing such a determination, such term means the aggregate of the sums of the days of membership of each child in the school divided by the number of days school was in session. Only days on which pupils were under the guidance and direction of teachers in the teaching process will be considered to be days in session. The ADM for a group of schools having varying lengths of terms is the sum of the ADM obtained for the individual schools divided by the number of schools in such group.

(20 U.S.C. 635 (a), (c), (d), 645(5))

(f) "Average daily membership of federally connected pupils" in each category of federally connected children (as described by clauses (1), (2), and (3) of section 5(a) of the Act) is the number of such children determined in the following manner: on a day not earlier than the fourth day of legal school session of the regular school year and prior to the cutoff date for filing the preapplication, a membership survey of all pupils claimed in each category of federally connected children must be made by either (1) conducting a parent-pupil survey to determine the child's residence on Federal property and the parent's employment, or active duty assignment in the uniformed services, or (2) obtaining certifications from the various employers or the appropriate housing officials as to the employment of the parents of the children claimed or the residence of such children on such day. A membership survey of all pupils must also be made as of such day, and such survey shall be the official membership report of the applicant local educational agency for such day. The membership survey used must be conducted in either the third or fourth year of the 4-year increase period. If application is made under section 5(a)(3) of the Act, the survey date must be within 3 months of the date the membership survey is initiated.

(20 U.S.C. 635, 644, 645(1), (5))

(g) "Base year" means the third or fourth school year preceding the fiscal year in which an application is filed, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or paragraph (3) of section 5(a) of the Act, the base year shall in no event be later than the regular school year 1973–74. Thus such term refers to the year preceding the 4-year increase period for which an application is filed.

(20 U.S.C. 645(15))

(h) "Classrooms" means (1) regular classrooms, including recitation, lecture, and general purpose rooms; and (2) special classrooms, including kindergarten rooms, science laboratories, shops, music, art and visual education, business education, and homemaking rooms.

(20 U.S.C. 645(9))

(i) "Complete application," except for applications under section 10 of the Act, means a preapplication (Exhibit M–1 of FMC 74–7), an application (Exhibit M–4 of FMC 74–7), and such supplemental information as may be requested by the Commissioner, all of which have been appropriately filed.

(20 U.S.C. 636(a); FMC 74–7)

(j) "Contracts-let date" means the date on which the Commissioner's notice setting the cutoff date for the receipt of applications for a fiscal year is filed with the Office of the Federal Register.

(20 U.S.C. 634)

(k) "Filed" means that all necessary parts of the preapplication or the complete application, as appropriate (bearing the required certifications and verifications by the State educational agency), are received by the Commissioner on or before the applicable cutoff date.

(20 U.S.C. 636(a), 636(b)(2)(B), 644(e))

(l) "Initial equipment" means any movable equipment necessary and appropriate to equip minimum school facilities. Such term does not include equipment purchased to replace any equipment which is obsolete or worn out and which was purchased with funds under the Act. Initial equipment to be procured with funds under the Act must be approved in advance in accordance with the provisions of § 114.58.

(20 U.S.C. 645 (9), (10))

(m) "Local educational agency" means a local educational agency as defined by section 15(11) of the Act. If the responsibility for providing school facilities for a local educational agency is vested in a State agency, the term includes such State agency together with such local educational agency.

(20 U.S.C. 645(11))

(n) "Member" of a class shall be determined, where appropriate, in accordance with the provisions of section 15(5) of the Act. In the absence of State law, or regulation, a member is a child who is on the current roll of the school. Such a child shall be considered a member from the date of enrollment until he permanently leaves the class or school for one of the causes recognized as sufficient by the State. The date of permanent withdrawal shall be the date on which it is officially known that the pupil has left school, and not necessarily the first day after the date of last attendance.

(20 U.S.C. 645(5))

(o) "Membership of children of temporary duration only" means the school membership of children whose residence in the school district of the local educational agency the Commissioner determines will probably be for more than one year and for less than 6 years beyond the date of the approval of the complete application and whose number is excluded from computation of maximum payments under section 5 of the Act.

(20 U.S.C. 635, 639)

(p) "Minimum school facilities" means classrooms and auxiliary rooms and initial equipment necessary to operate a program of free public education for the membership of the applicant at normal capacity in accordance with the laws and customs of the State.

(1) Such term does not include athletic stadiums, or structures, or facilities intended primarily for athletic exhibitions, contests, or games, or other events for which admission is to be charged to the general public.

(2) Except as used in sections 9 and 10 of the Act, such term does not include interests in land or off-site improvements.

(3) Such term includes

(i) An auditorium or a gymnasium only if the Commissioner determines that such a structure is justified by the size of the school's enrollment, the educational program to be conducted by the school, and the standards and practices in the State. Such a structure may provide fixed or moveable seating only for the normal capacity of the school; and

(ii) Air conditioning in all States which are, in whole or in part, south of the 39° parallel if an authorized representative of the State educational agency certifies to the Commissioner that air conditoned school facilities are currently being constructed with State and local funds within such State. Such term includes air conditioning in all other States only if such certification is accompanied by the results of a survey which shows that air conditioning is provided in a majority of recently constructed school facilities within the State.

(iii) In appropriate situations, particularly under section 14 of the Act, the construction of consolidated school facilities (in cases of consolidation of small districts) or the replacement of small, isolated, inadequate, buildings with modern facilities, even though there may otherwise be enough classroom space to house all the children.

(iv) Dual-use fallout shelter space which is provided as a regular safety feature. If the spaces within the buildings prove to provide shelter from fallout at little or no additional cost, they may also be considered as minimum school facilities.

(20 U.S.C. 645 (9), (10); Senate Report No. 90-726, November 6, 1967, 41)

(q) "Normal capacity" of a school room is the number of pupil stations which the room accommodates under ordinary conditions in accordance with the laws and customs of the State governing free public education.

(20 U.S.C. 634, 640, 644(c))

(r) "Parent-pupil survey" means a questionnaire which is provided by the applicant and filled out by a parent in order to substantiate residence or employment on Federal property. Such survey must include:

(1) Pupil-enrollment information (which may be obtained from school records), including:

(i) Name of pupil;

(ii) Date of birth; and

(iii) Name of public school, grade, and teachers; and

(2) Pupil-residence and parent-employment information including:

(i) Address of pupil residence (including the name of the Federal facility if such address is located on Federal property);

(ii) Name (as it appears on employer's payroll record) of parent (mother, father, legal guardian or other person standing in loco parentis) who is employed on Federal property and with whom such pupil resides, unless the parent is a member of the uniformed services on active duty;

(iii) Name and address of Federal property on which the parent is employed unless the parent is a member of the uniformed services on active duty;

(iv) If the parent is a member of the uniformed services on active duty, the name, the rank, serial number, and branch of service of such parent;

(v) If the parent is a civilian employed on a Federal vessel, the name of vessel, hull number, and name of controlling agency must be obtained;

(vi) Signature of the parent supplying the information and the date of the signature must be obtained; and

(vii) The name and address of employer (unless the parent is a member of uniformed services on active duty).

(3) Only in unusual circumstances may partially completed survey forms or forms which are signed by a person other than parent, or person standing in loco parentis, be accepted. In such circumstances the form must show why the parent did not sign, and when, how, and from whom the residence and employment information was obtained.

(20 U.S.C. 634, 635(a))

(s) "Preapplication" means both Exhibit M-1, of FMC 74-7 and such supplemental information as may be requested by the Commissioner.

(20 U.S.C. 636(a); FMC 74-7)

(t) "Priority indices" means the indices established pursuant to this part based on relative urgency of need for the purpose of determining the order of approval of project applications, and the order of payments within each priority grouping.

(20 U.S.C. 633)

(u) "Remote or isolated areas" means attendance areas or local educational agencies or portions thereof designated as such by the Commissioner for the purposes of waivers under sections 5(e) and 14 of the Act (see Subpart D of this part). Such designation will be based upon the following factors:

(1) Topography;

(2) Geographic isolation;

(3) Traffic conditions;

(4) Climatic conditions; and

(5) Other similar conditions which make it impracticable to transport students to other school facilities of the applicant or to any adjacent local educational agency.

(20 U.S.C. 635(e), 644)

(v) "Repairs" means, for the purpose of applications under section 10 of the Act, only those repairs which must be accomplished without delay in order to avoid further deterioration of the school facilities or to protect the safety of individuals occupying the facility. Such term does not for that purpose include the remodeling or rearrangement of existing facilities to permit grade pattern reorganization or the providing of minimum school facilities.

(20 U.S.C. 635, 640(a))

(w) "Subpriority indices" means the indices established pursuant to § 114.6 for the purpose of determining the order of approval of project applications having identical priority indices, when appropriated funds are insufficient to fund all such project applications.

(20 U.S.C. 633, 634, 644(e))

(x) "Total square feet of floor area" means the sum of the square feet of each usable floor (including partitions and exterior walls) within the perimeter of outside walls at the respective floor levels. Covered passageways with one or more sides open are deemed to have one-half the square feet of floor area they would otherwise have.

(20 U.S.C. 645(6))

(y) "Unhoused" pupils or "inadequately housed" pupils means:

(1) For the purpose of determining priority, the difference between the total estimated membership as of the end of the increase period and the total normal capacity of available and usable school facilities; or

(2) For the purpose of determining the need for minimum school facilities, the difference between the total estimated membership as of the end of the second year following the end of the increase period and the total normal capacity of available and usable school facilities.

(20 U.S.C. 634, 640, 644(c), 645(10))

(z) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Science Services Administration, and Public Health Service.

(20 U.S.C. 636(a)(1)(B))

Subpart B—Filing Complete Applications and Determining Priority Indices

§ 114.2 Cutoff dates for filing applications.

The Commissioner will, by notices published in the FEDERAL REGISTER, set cutoff dates for the filing of applications under this part for each fiscal year.

(20 U.S.C. 633, 636(a), 640(a), 644(e))

§ 114.3 Election where two or more categories under section 5(a) apply.

A district may combine children described in sections 5(a)(1) and 5(a)(2) of the Act to meet the percentage-increase requirements for eligibility purposes. If eligibility requirements are met by such combination, the maximum Federal payment will be computed on the basis of the number of children described in each section at the respective rates of payment specified therefor. However, if children eligible to be counted under section 5(a)(1) or 5(a)(2) of the Act are counted under section 5(a)(3) to meet eligibility requirements for that section, the maximum Federal payment will be computed on the basis of the number of children counted under section 5(a)(3) at the rate of payment specified for that section.

(20 U.S.C. 635)

§ 114.4 Procedure if funds are inadequate to make all payments.

(a) Section 2 of the Act provides that for each fiscal year the Commissioner is to determine the portion of the funds appropriated under the Act which will be available for carrying out the provisions of sections 9 and 10 and that the remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6. Section 3 of the Act provides that the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under the Act and remaining available on any cutoff date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under the Act have not already been obligated). Only applications meeting the conditions for approval under the Act (other than section 6(b)(2)(C)) will be considered applications for purposes of the preceding sentence. Such an order of priority is to provide that applications for payments based upon increases in the number of children either residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937, as amended, will not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of section 5(a) have been approved for that fiscal year. Section 14(e) of the Act provides, in part, that in determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility. Section 14(h) provides that it is the policy of the Congress that the provision of assistance pursuant to sections 14(a) and 14(b) of the Act shall be given a priority at least equal to that given to payments made pursuant to section 10 of the Act.

(20 U.S.C. 632, 635(c)(2), 636(b)(2)(C), 639, 640, 644)

(b) Pursuant to the above provisions of the Act, applications for assistance under the provisions of sections 9, 10, 16, 14(a), and 14(b) will have priority funding over applications under section 6 (as limited by section 5), and sections 8 and 14(c) of the Act. That portion of payments for applications filed in accordance with the provisions of section 6 (as limited by section 5) and section 8 of the Act based upon increases in the number of children either residing on, or residing with a parent employed on, Federal property (other than property which is part of an eligible low-rent housing property) will have priority in funding over that portion of payments that is based upon increases in the number of children countable for payment under sections 5(a)(2) and 5(a)(3) who either reside on, or reside with a parent employed on, an eligible low-rent housing property.

(20 U.S.C. 635, 636, 638, 639, 640, 644, 646)

(c) For each fiscal year, the Commissioner will first determine the estimated requirements for all applications filed under sections 9, 10, and 16 and sections 14(a) and 14(b) of the Act. Funds available therefor will be allocated first to applications under section 16 of the Act. The remainder of such funds will be allocated to section 14(a), and 14(b) to section 9, and to section 10, in the ratio of the estimated requirements under each section to the total requirements for all such sections.

(20 U.S.C. 632, 639, 640, 644, 646)

(d) Each approvable application under sections 9, 10, 14(a), and 14(b) of the Act will be assigned a priority rating determined in the manner specified in this section and in § 114.5, and a priority listing will be established for each such section. The funds allocated as prescribed in paragraph (c) of this section will be reserved for applications on such priority listing in order of priority indices. When all such applications have been funded, any remaining available funds will be reserved for applications under section 6 (as limited by section 5), section 8 and section 14(c).

(20 U.S.C. 635, 636, 638, 644)

(e) For each fiscal year, a priority listing also will be established for applications under sections 6 (as limited by section 5) and 8 of the Act for that portion of payments which is based on increases in the number of children either residing on, or residing with a parent employed on, an eligible low-rent housing property. Funds will be reserved for applications on such a priority listing after funds have been reserved for all other approvable applications under section 6 (as limited by section 5), section 8, and section 14(c), filed for that fiscal year.

(20 U.S.C. 633, 634, 635, 636, 637, 638, 644)

§ 114.5 Determination of priority indices and priority groupings for applications.

(a) For applications under sections 6 and 14 of the Act, a priority index will be determined for the first pending requested construction project of each applicant by adding (1) the percentage that the estimated number of federally connected children countable for payment in the local educational agency (or, except under section 14(a) and 14(b), in the approved attendance area) is of the total estimated membership of all children therein at the close of the applicable period; and (2) the percentage of the estimated school membership within the local educational agency (or in the approved attendance area) which at the same time is without minimum school facilities. However, in no case shall the amount used in determining the priority index exceed twice the percentage obtained in paragraph (a)(1) of this section. No priority, except under sections 14(a) and 14(b), shall be established for any applicant having less than 20 unhoused children in the local educational agency (or in the approved attendance area).

(20 U.S.C. 633)

(b) For requests under section 10 of the Act, a priority index will be determined for the first pending requested project of each applicant by adding (1) the percentage that the estimated number of children for whom minimum school facilities are to be provided is of the total estimated number of all children residing and attending school on the installation at the close of the applicable period; and (2) the percentage of the estimated school membership at such installation which is without minimum school facilities as of the same time. However, in no case will the combined percentage used in determining the priority index exceed twice the percentage arrived at in subparagraph (1) of this paragraph. In determining the order of priority for approving applications under section 10, applications will be classified in priority groups for establishing priority in funding from funds allocated for applications under section 10 as prescribed in paragraph (c) of § 114.4 and a priority listing will be established for each such group in the following order: (i) Applications requesting major repairs necessary for the safety of school children or to prevent further deterioration of existing school facilities; (ii) applications in cases where the local educational agency which operates the school program in school facilities located on Federal property has given assurance and a firm commitment to the Commissioner that, upon completion of the proposed project, it will accept ownership of such school facilities under section 10(b) of the Act; (iii) applications in cases where there are unhoused pupils; and (iv) applications requesting the construction of capacity or noncapacity school facilities, or the rehabilitation or remodeling of existing school facilities which is required to bring the school facilities up to a standard which will permit the offering of a contemporary educational program.

(20 U.S.C. 640)

(c) In those cases in which an applicant has filed more than one project application (or in the case of section 10, when two or more applications are filed which fall within the same priority grouping, as established in paragraph (b) of this section), the priority index for the second project will be determined by: (1) Dividing the normal capacity of first project by the total estimated membership at the close of the applicable period and (2) reducing the applicant's priority index by twice the percentage so obtained. When more than two project applications have been filed, the priority index for each succeeding project shall be reduced by the cumulative total percentage, in the manner provided for in the preceding sentence, of all approved projects of the applicant.

(20 U.S.C. 633, 640, 644)

§ 114.6 Determination of subpriority indices for applications.

(a) In the event that the funds available are sufficient to cover only a portion of the project applications with identical priority indices (as determined under § 114.5), a subpriority index for each project application will be determined by dividing (1) the estimated number of federally connected children countable for payment in the local educational agency (or in the approved attendance area) or, in the case of section 10 of the Act, the number of children for whom school facilities are to be provided on Federal property by (2) the total estimated membership of all children in such an area at the close of the applicable period.

(20 U.S.C. 633, 634, 640, 644)

(b) In those cases where an applicant has more than one eligible project application in an identical priority index group, the subpriority index of the first project in such group will be computed in accordance with paragraph (a) of this section, and the subpriority index of the second priority will be determined by (1) dividing the normal capacity of the first project by the total estimated membership at the close of the applicable period and (2) reducing the applicant's subpriority index as determined in paragraph (a) of this section by twice the percentage so obtained. The subpriority index for each succeeding project will be reduced by the cumulative total capacity, as provided in the first sentence of this paragraph, of all the approved projects of the applicant.

(20 U.S.C. 633, 634, 640, 644)

§ 114.7 Priority and approval conditioned upon readiness to proceed with construction.

Initial approval of a project application under this part will be cancelled if the applicant is not ready to proceed with construction within 120 days after the date of initial approval unless such period is extended by the Commissioner for good cause shown. The applicant's project and entitlement may be subordinated by reason of such failures to other project applications of lower rank or the applicant may forfeit its priority in the discretion of the Commissioner.

(20 U.S.C. 633, 634, 636(b)(1)(D), 644)

Subpart C—Policy Determinations in Processing of Applications

§ 114.11 Membership of nonresident pupils.

For purposes of sections 5, 8, 9, and 14 of the Act and the regulations in this part, in determining an applicant's membership, a nonresident pupil who attends a school in the applicant local educational agency on a tuition or nontuition basis may be counted in the applicant's membership if a written agreement for such attendance has been entered into between the local educational agencies concerned, and if that agreement has been approved by the Commissioner. No such agreement will be approved by the Commissioner unless it provides for education on either a tuition or nontuition basis for a period of 20 years from the date of execution of such agreement.

(20 U.S.C. 645(5))

§ 114.12 Changes in boundaries, classification and governing authority of applicants.

(a) If the applicant is a party to any merger, consolidation, or other similar action which may affect its boundaries, identity, governing authority, classification or control, it shall notify the Commissioner as soon as practicable of the effective date of that action, the extent and character thereof, and the legal authority under which the action was or is to be effected.

(b) A local educational agency succeeding to the territory of one or more local educational agencies whose applications were approved (or in due course would have been approved) prior to the change in boundaries or organization may secure all the rights and benefits which were vested in such application(s) by notifying the Commissioner and by submitting the following:

(1) A letter from the authorized representative of the successor local educational agency (i) requesting that the successor local educational agency be substituted for the original applicant agencies, and (ii) stating that the successor local educational agency agrees to be bound by the obligations and assurances undertaken or made by such original applicant local educational agencies in their applications to the same extent as such original applicants would have been bound;

(2) An opinion of the appropriate legal officer of the County or State showing that (i) the change in boundaries or organization was accomplished in accordance with the laws of the State; and (ii) that the assignment and acceptance or the transfer of the interest of the applicant local educational agency to the successor local educational agency is in accordance with the laws of the State and is effective to accomplish the changes described; and

(3) Assignments, citations or quotations as follows:

(i) If the State law provides for the settlement of the assets and liabilities (including such matters as right to successorship in property, debts, obligations, unfulfilled contracts, details of the assumption of bonded indebtedness, State aid and taxes) the appropriate quotations from or citations to specific State laws involved should be submitted; or

(ii) If the State law does not clearly provide for the disposition of such property rights, an assignment from each of the former local educational agencies to the successor agencies should be submitted showing (a) the transfer of ownership of the building or buildings under construction or contract, (b) the transfer of any unexpended funds or rights to funds for the approved projects then on hand, and (c) the transfer of all rights and obligations of the applicant local educational agencies in and to any project application not yet approved and any future payments or benefits which might accrue under the pending applications.

(c) The rights and benefits under the Act of the successor agency cannot be greater than the total of all rights and benefits which originally were vested in the component agencies which had valid applications on file to the effective date of the change in boundaries or organization.

(20 U.S.C. 645(11))

§ 114.14 Estimated average daily membership under section 5(a)(3).

For the purpose of eligibility and entitlement under section 5(a)(3) of the Act, the estimated number of children in average daily membership during the year shall be 97 percent of the difference between (1) the total number of children in membership whose parents are employed (as determined by a parent-pupil survey made as of any specific date during the increase period) in establishments with respect to which a responsible official thereof certifies that there has been an increase in employment subsequent to the base year in order to fulfill Federal contracts or subcontracts, and (2) the number of such children whose parents moved into the applicant school district subsequent to such a base year.

(20 U.S.C. 635(a)(3), (d)(2)(B))

§ 114.15 Determination of undue financial burden.

A determination under section 5(c) of the Act of undue financial burden on the taxing and borrowing authority of an applicant will be made as follows:

(a) If the cost of providing minimum school facilities for the increase in eligible federally connected children under section 5(a)(3) of the Act plus the outstanding bonded debt for building purposes, would result in the necessity of incurring a percentage obligation against assessed valuation in building bonds or other debentures which exceeds the average percentage of such indebtedness incurred for such obligations by school districts in the applicant's State, an undue financial burden is deemed to exist;

(b) In marginal cases, additional consideration may be given to such factors as (1) dollars per child in assessed valuation, (2) increase in total assessed valuation in relation to increase in membership during the increase period, (3) ratio of assessed valuation to true value, and (4) special State laws or practices.

(20 U.S.C. 635(c))

§ 114.16 Additional payments under section 8.

(a) An amount not to exceed 10 percent of any amount appropriated under the Act (exclusive of any sums appropriated for administration) may be reserved and used by the Commissioner to make grants to applicants (except to applicants under section 14 of the Act) when (1) the application would be approved but for the applicant's inability, unless aided by such a grant, to finance the nonfederal share of the cost of a project; or (2) after the approval of the application the project cannot, without such grant, be completed because of flood, fire, or similar emergency affecting either the work on the project or the applicant's ability to finance the nonfederal share of the cost of the project.

(b) Under paragraph (a)(1) of this section, a complete application (except applications under section 14 of the Act and applications with respect to which the Commissioner has waived or reduced eligibility requirements under section 5(e) of the Act) may be considered for payment of part or all of the nonfederal share of the cost of any project which does not include more than minimum facilities for unhoused children only if: (1) The application contains a request for payment under the Act; (2) the estimated number of children countable for payment under section 5 of the Act for the increase period equals or exceeds the number obtained by taking 12 percent of the average daily membership of the applicant district for the base year applicable to the increase period under consideration, except that, if 1 or more years in the increase period were included in a previous application for which payment has been made or may be made, the percent shall be 9 percent if 1 year was included, 6 percent if 2 years were included, and 3 percent if 3 years were included; (3) the applicant has exhausted all fiscal resources, including State aid, bonding authority, and Federal aid, which are practicably available to it and is unable to pay the nonfederal share of the cost of the project; (4) it has been reached on the priority or subpriority indices established under this part; and (5) Federal money reserved under paragraph (a) of this section is available. The additional payment to the applicant under this section may not exceed the cost of providing minimum school facilities for the number of unhoused children as of the end of the increase period, less all financial resources practicably available to the applicant as of the same period; nor may it exceed the difference between (i) the actual cost of providing minimum facilities for the federally connected pupils eligible for payment under the Act, or the average cost in the State of providing such facilities, whichever is the lesser, and (ii) the Federal funds made available to the applicant under section 5 of the Act plus local and State funds which may be made available for this purpose.

(c) Under paragraph (a)(2) of this section, a request by the applicant may be considered for the additional payment of part or all of the funds required to complete a project (to the extent that the completed project will not provide more than minimum school facilities for unhoused children) for which a project application under the Act has been approved only if: (1) Federal money reserved under paragraph (a) of this section is available; (2) the applicant cannot complete the project because of flood, fire, or similar emergency affecting either the work on the project or the applicant's ability to finance the nonfederal share of the cost of the project; and (3) the applicant has exhausted all financial resources practicably available to it, including State aid, bonding authority, and Federal aid. The payment to be made under this paragraph may not exceed the amount required to pay the additional cost caused by the emergency less any financial resources of the applicant practicably available for such purposes, including the proceeds of any insurance.

(20 U.S.C. [illegible])

§ 114.17 School facilities for children whose membership is of temporary duration only.

(a) If the Commissioner determines that the membership of some of the children of the applicant, representing otherwise countable Federal increases under section 5 of the Act, will be of temporary duration only, the membership of such children must be excluded in computing maximum payments under such section 5.

(20 U.S.C. [illegible])

(b) The Commissioner when proper request therefor is made in a complete application, may: (1) Make available to such applicant such temporary school facilities as may be necessary to take care of the membership of such children as the Commissioner determines will be of temporary duration only, as defined in § 114.1(o), or (2) where the applicant gives assurance in a complete application that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of the Act) to such applicant for use in constructing school facilities an amount not greater than the amount which he estimates will be necessary to make available temporary facilities for such children, but the amount so paid shall not exceed the cost of constructing minimum school facilities for such children. In no case will provision for such children be made unless they are deemed to be without minimum school facilities.

(20 U.S.C. [illegible])

§ 114.18 Determination of eligibility under section 14.

(a) The requirements contained in section 14(a)(1) of the Act will be deemed to have been met when one of the following conditions exist:

(1) The total number of children who reside on Indian lands (for whom the applicant is providing, or upon completion of the school facilities for which provision is made, will provide, free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 15 and represent as least 33⅓ percent of the total number of children for whom the applicant is providing free public education (such percentage requirement may, however, be waived by the Commissioner under § 114.35);

(2) The Indian lands in the school district of the applicant represent at least 33⅓ percent of the total land area of the school district; or

(3) The applicant is providing, or upon completion of the school facilities for which provision is made will provide, free public education to 100 or more children who reside on Indian lands located outside the local educational agency.

(20 U.S.C. 644(a)(1))

(b) The requirement contained in section 14(a)(4) of the Act will be deemed to have been met when, in accordance with the provisions of paragraph (d) of § 114.1, the applicant does not have available sufficient funds to provide minimum school facilities for at least 95 percent of the total number of children estimated to be in membership in the applicant's schools as of the end of the second year following the end of the increase period for which the application is filed.

(20 U.S.C. 644(a)(4))

(c) The requirement in section 14(b)(1) of the Act will be deemed to have been met when one of the following conditions exist:

(1) The estimated number of children who reside on Indian lands as of the close of the increase period (for whom the applicant is providing, or upon completion of the school facilities for which provision is made, will provide, free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 15 and represents at least 10 percent of the total number of children for whom the applicant is providing free public education. (Such percentage requirement may, however, be waived by the Commissioner under § 114.36);

(2) The Indian lands in the school district of the applicant represent at least 10 percent of the total land area of such school district; or

(3) The applicant is providing, or upon completion of the school facilities for which provision is made, will provide, free public education to 100 or more children who reside on Indian lands located outside the applicant's school district.

(20 U.S.C. 644(b)(1))

(d) The requirement in section 14(c)(1) of the Act will be deemed to have been met when the following conditions exist:

(1) The total number of children who are inadequately housed by minimum school facilities (for whom the applicant is providing, or upon completion of the school facilities for which provision is made, will provide, free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 20 and represents at least 33⅓ percent of the total number of children for whom the applicant is providing free public education (such percentage requirement may, however, be waived by the Commissioner under § 114.37); and

(2) The Federal property in the school district of the applicant represents at least 33⅓ percent of the total land area of the school district.

(20 U.S.C. 644(c)(1))

(e) The requirement in section 14(c)(4) of the Act will be deemed to have been met when, in accordance with the provisions of paragraph (d) of § 114.1, the applicant does not have available sufficient funds to provide minimum school facilities for at least 95 percent of the total number of children estimated to be in the applicant's schools as of the end of the second year following the end of the increase period for which the application is filed.

(20 U.S.C. 644(c)(4))

Subpart D—Criteria for Waivers Under the Act

§ 114.30 Application for waivers.

Applications for waivers pursuant to section 5(e) of the Act shall be made in accordance with Maximum Grant (OE

Form 355). Such application may request a waiver with regard to the entire local educational agency, or any portion thereof, as appropriate.

(20 U.S.C. 635(e))

§ 114.31 Criteria for waiver under section 5(e) of minimum number requirement of 20 in section 5(c).

The Commissioner will not, under section 5(e) of the Act, waive or reduce the minimum increase number of 20 in federally connected membership required by section 5(c) unless the conditions set forth in paragraphs (a) through (d) of this section, or that set forth in paragraph (e) of this section, are met:

(a) The applicant would otherwise be eligible for the assistance requested;

(b) The estimated increase in federally connected membership in the increase period is at least 25 percent of the base year total average daily membership;

(c) The local educational agency is located in a remote or isolated area, or the Federal impact is in an attendance area or other geographical area which is located in an isolated or remote part of the local educational agency;

(d) The local educational agency has need for additional classroom facilities or related school facilities in order to provide minimum school facilities for the estimated number of children in the remote or isolated area who will be in the membership of the schools at the close of the increase period covered by the application;

(e) The Commissioner determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid inequity and to avoid defeating the purposes of the Act.

(20 U.S.C. 635 (c), (e))

§ 114.32 Criteria for waiver under section 5(e) of percentage requirements for federally connected and nonfederally connected membership in section 5(c).

(a) The Commissioner will not, under section 5(e) of the Act, waive or reduce the percentage requirement or requirements in section 5(c) of the Act, waive the requirement contained in the first sentence of section 5(d) of the Act, or reduce the percentage specified in clause (2) of such sentence, unless the conditions set forth in paragraphs (a)(1) through (5) of this section, inclusive, or that set forth in paragraph (a)(6) of this section, are met:

(1) The applicant would otherwise be eligible for the assistance requested;

(2) The applicant specifically states the extent to which it desires the Commissioner to exercise his authority to waive or reduce one or more of such requirements and makes appropriate requests therefor, agreeing that if such a request is granted in whole or in part in computing maximum payment under the Act, only membership of children within the federally impacted attendance area shall be considered;

(3) The applicant has two or more attendance areas, and its jurisdictional area is countywide or is sufficiently extensive as to be reasonably analogous to a countywide school system;

(4) In the increase period for which the application is made the Federal impact is equal to at least 10 percent of the average daily membership in the base year in an attendance area or other geographical area which is located in an isolated or remote part of the local educational agency;

(5) The school district is located in a remote or isolated area, or the Federal impact is in an attendance area or other geographical area which is located in a remote or isolated part of the school district;

(6) The Commissioner determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid inequity and to avoid defeating the purposes of the Act.

(b) If the Commissioner decides to waive or reduce one or more of the requirements set forth in § 114.31 or paragraph (a) of this section:

(1) He will determine which requirement or requirements he will waive, or reduce, and, if the latter, the extent of such a reduction;

(2) He will determine the geographical area of the applicant which will be considered as constituting the federally impacted attendance area; and

(3) The application will otherwise be processed under the Act and this part, taking into consideration only the federally impacted attendance area determined under subparagraph (2), but in no case will payments under this paragraph exceed the amounts computed for the local educational agency as a whole taking into consideration the waivers or reductions made by the Commissioner.

(20 U.S.C. 635(c) and (e))

§ 114.33 Criteria for waiver under section 5(e) for children residing on Federal property.

(a) The Commissioner will not, under section 5(e) of the Act, waive or reduce the percentage increase requirement in section 5(c) of the Act with respect to children residing on Federal property, or waive or reduce the percentage increase requirement in section 5(d) of the Act with respect to nonfederally connected children, unless the conditions set forth in paragraphs (a)(1) through (5) of this section are met:

(1) The applicant would otherwise be eligible for the assistance requested;

(2) The applicant specifically states the waiver it desires or the extent to which it desires a reduction in one or more requirements, and makes an appropriate request therefor in which it agrees that, if such a request is granted in whole or in part, only the Federal property upon which the children reside shall be considered as a federally impacted attendance area in computing maximum payment under the waiver or reduction in requirements and that only children residing on the Federal property constituting the federally impacted attendance area will be considered in determining the increase in membership of federally connected children;

(3) There has been an increase in membership of the children residing on the Federal property constituting the federally impacted attendance area in the increase period for which the application is made of at least 50 and equal to at least 8 percent of the average daily membership of such children in the base year, or there are at least 50 more children residing on such Federal property than were estimated to be in the membership of the applicant's schools at the end of the increase period under the last previous application for which payment has been made or may be made;

(4) The applicant has need for additional classrooms or related school facilities on the basis of the local educational agency as a whole, or the school facilities of such applicant are not reasonably accessible to the children residing on the Federal property constituting the federally impacted attendance area because of their location or the infeasibility of transporting the children residing on such Federal property to such facilities; and

(5) The school facilities to be constructed with the funds made available to the applicant upon approval of the waiver will be located on the Federal property or close enough thereto to serve the children residing thereon.

(b) If the Commissioner decides to waive or reduce the percentage increase requirement in section 5(c) of the Act with respect to children residing on Federal property, or the percentage increase requirement with respect to nonfederally connected children in section 5(d) of the Act:

(1) He will determine which requirements he will waive or reduce and the extent of any such waiver or reduction; and

(2) He will determine the geographical area of the applicant which will be considered as constituting the federally impacted attendance area; and

(3) The application will otherwise be processed under the Act and this part, taking into consideration only the federally impacted attendance area determined under subparagraph (2), but in no case will payments under this paragraph exceed the amount computed for the local educational agency as a whole, taking into consideration the waivers or reductions made by the Commissioner.

(20 U.S.C. 635(c), (d), and (e))

§ 114.34 Criteria for waiver under section 5(e) of limitation on number of federally connected children eligible for payment in section 5(f).

Waivers of the limitation on the number of federally connected children eligible for payment will be made in accordance with the following standards and procedures:

(a) Waivers for children residing in Federal housing:

(1) The Commissioner will determine the geographical area of the applicant which will be considered the federally impacted attendance area;

(2) The application will otherwise be processed under the Act and this part, taking into consideration only the federally impacted attendance area determined under paragraph (a)(1) of this section, but in no case will payments under this paragraph exceed the amounts computed for the local educational agency as a whole taking into consideration the waivers or reductions made by the Commissioner.

(3) The applicant must show that, after receiving Federal funds based primarily on the eligibility of children residing in Federal housing and using them to construct school facilities to serve such children, some or all of the Federal housing became nonfederal property, and as a result:

(i) There is a reduction in the number of federally connected children for whom school facilities were constructed;

(ii) Additional Federal housing was or will be constructed in another attendance area of the local educational agency;

(iii) Not less than 8 years after the Federal housing becomes nonfederal property, the increase in a 4-year period in federally connected membership residing in the additional Federal housing is at least 50 and at least 8 percent of the average daily membership of such children in the base year of the increased period;

(iv) The local educational agency has need for additional school facilities for the local educational agency as a whole as of the end of the second year following the increase period for which the application is filed; and

(v) The school facilities to be constructed will be located reasonably close to the area in which the new increase in federally connected membership resides.

(4) The application will be processed taking into consideration only the increase in membership in a 4-year increase period of the children residing in the additional Federal housing. Payment will be limited to providing minimum school facilities for such children estimated to be in membership as of the second year following the increase period.

(b) Waivers for children whose parents are employed in temporary activities on Federal property:

(1) The Commissioner will determine the geographical area of the applicant which will be considered the federally impacted attendance area; and

(2) The application will otherwise be processed under the Act and this part, taking into consideration only the federally impacted attendance area determined under paragraph (b)(1) of this section, but in no case will payments under this paragraph exceed the amounts computed for the agency as a whole taking into consideration the waivers or reductions made by the Commissioner;

(3) The applicant must show that, after receiving Federal funds based primarily on the membership of children whose parents were engaged in temporary activities on Federal property (such as the construction of a dam, power station, highway, or reclamation project) such funds were used to provide school facilities to serve primarily the children whose parents were so engaged; the temporary activity on Federal property was completed or greatly reduced, and as a result, the following conditions exist:

(i) The children whose parents were engaged in such temporary activities have moved out of the area;

(ii) Not less than 8 years after the temporary activity on Federal property was completed or greatly reduced, the increase in a four-year period in the membership of children whose parents are engaged in temporary activities on Federal property in a second area (remote from the first area of temporary Federal activity) is at least 50 and at least 8 percent of the base year average daily membership of such children;

(iii) The local educational agency has need for additional school facilities in the second area of temporary activity as of the end of the second year following the increase period for which the application is filed; and

(iv) The school facilities to be constructed will be located reasonably close to the area in which the new increase in federally connected membership resides;

(4) The application will be processed taking into consideration only the increase in membership in a 4-year increase period of the children whose parents are engaged in the new temporary projects on Federal property, and payment will be limited to providing minimum school facilities for such children estimated to be in membership as of the second year following the increase period.

(20 U.S.C. 636(e)(3), (f))

§ 114.35 Criteria for waiver of percentage requirement in section 14(a).

(a) The Commissioner will not waive the substantial percentage requirement imposed by section 14(a)(1) of the Act unless the conditions set forth in paragraphs (a) (1) through (6) of this section, or that set forth in paragraph (a) (7) of this section, are met:

(1) The applicant would otherwise be eligible for the assistance requested;

(2) The applicant makes a request to waive such percentage requirement;

(3) The applicant's school district is countywide or is sufficiently extensive as to be analogous to a countywide school district;

(4) There has been a concentration of children residing on Indian lands located in a remote or isolated area;

(5) The number of children residing on Indian lands located in the remote or isolated area and estimated to be in membership in the applicant's schools as of the close of the membership period for which the application is filed is at least 15 and constitutes at least 20 percent of the total number of children in membership in the district as a whole and for whom the applicant is providing free public education;

(6) The Federal lands in the applicant's school district constitute at least 80 percent of the total area of such district;

(7) The Commissioner determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid inequity and to avoid defeating the purpose of the Act.

(b) If the Commissioner waives the specified percentage requirement under paragraph (a) of this section, the application will be processed under the Act and this part, taking into consideration only the remote or isolated attendance area, but in no case will payments under this paragraph exceed the cost of construction of minimum school facilities in the local educational agency for the number of all children in the approved waiver area which the Commissioner determines will be in membership in the schools of the applicant as of the close of the second year following the close of the membership period for which the application is filed, and who would otherwise be without such facilities, less the amount of financial resources which the Commissioner determines to be practicably available to the applicant from local, State, or other Federal sources.

(20 U.S.C. 644(a))

§ 114.36 Criteria for waiver of substantial percentage requirement in section 14(b).

(a) The Commissioner will not waive the substantial percentage requirement imposed by section 14(b)(1) of the Act unless the conditions set forth in paragraphs (a)(1) through (6) of this section, or that set forth in paragraph (a) (7) of this section, are met:

(1) The applicant would otherwise be eligible for the assistance requested;

(2) The applicant makes a request to waive such percentage requirement;

(3) The applicant's school district is countywide or is sufficiently extensive as to be analogous to a countywide school district;

(4) There has been a concentration of children residing on Indian lands located in a remote or isolated area;

(5) The number of children living on Indian lands located in the remote or isolated area and estimated to be in membership in the applicant's schools as of the close of the membership period for which the application is filed is at least 15 and constitutes at least 5 percent of the total number of children in membership in the district as a whole and for whom the applicant is providing free public education;

(6) The Federal lands in the applicant's school district constitute at least 20 percent of the total area of such district;

(7) The Commissioner determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid inequity and to avoid defeating the purpose of the Act.

(b) If the Commissioner waives the specified percentage requirement under paragraph (a) of this section, the application will be processed under the Act and this part, taking into consideration only the remote or isolated attendance area; but in no case will payments under this paragraph exceed the cost of construction of minimum school facilities for the number of children which the Commissioner determines will reside on Indian lands in the remote or isolated area and who [illegible] be in membership in the schools of [illegible] applicant as of the close of the second year following the close of the membership period for which the application is filed, and who would otherwise be without such facilities, and which cost has not been, and is not to be recovered by the applicant from other sources, including payments by the United States under any other provisions of the Act or any other law.

(20 U.S.C. 644(b))

§ 114.37 Criteria for waiver of substantial percentage requirement in section 14(c).

(a) The Commissioner will not waive the substantial percentage requirement imposed by section 14(c)(1) of the Act unless the conditions set forth in paragraphs (a) (1) through (6) of this section, or that set forth in paragraph (a) (7) of this section, are met:

(1) The applicant would otherwise be eligible for the assistance requested;

(2) The applicant makes a request to waive such percentage requirement;

(3) The applicant's school district is countywide or is sufficiently extensive as to be analogous to a countywide school district;

(4) There has been a concentration of children who are inadequately housed by minimum school facilities located in a remote or isolated area;

(5) The number of children who are inadequately housed by minimum school facilities located in the remote or isolated area and estimated to be in membership in the applicant's schools as of the close of the membership period for which the application is filed is at least 20 and constitutes at least 20 percent of the total number of children in membership in the local educational agency as a whole and for whom the applicant is providing free public education;

(6) The Federal lands in the applicant's school district constitute at least 80 percent of the total area of such district;

(7) The Commissioner determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid defeating the purpose of the Act.

(b) If the Commissioner waives the specified percentage requirement under paragraph (a) of this section, then the application will be processed under the Act and this part, taking into consideration only the remote or isolated attendance area; but in no case shall payments hereunder exceed the cost of construction of minimum school facilities for the number of children in the remote or isolated attendance area (or approved attendance area) which the Commissioner determines are inadequately housed and who will be in increase in the schools of such applicant as of the close of the second year following the close of the membership period for which the application is filed, and who would otherwise be without such facilities, minus any portion of the cost which has not been, and is not to be, recovered by the applicant from other sources, including any amount which the Commissioner determines is or will be practicably available to the applicant from any local, State, or Federal sources.

(20 U.S.C. 644(c))

Subpart E—Certification of Payments

§ 114.41 Certification of payments.

Except with respect of payments under sections 10 and 14 of the Act, payments to an applicant will be made only on the basis of a complete application satisfying conditions for payment under the Act and this part, and will be restricted in amount to the cost of providing minimum school facilities for unhoused children. With respect to such payments:

(a) The Federal share of the cost of a project which will be certified for payment, within the maximum otherwise payable under the Act (except as provided in section 8 thereof), will not exceed the cost of constructing minimum school facilities in the local educational agency nor the cost of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such applicant at the close of the second year following the increase period under consideration and who will otherwise be unhoused; and

(b) Nothing in this part shall be deemed to bar an applicant, with the approval of the State educational agency, from using for an approved project, in addition to payments under this part, money otherwise obtained to provide a higher quality, larger, or better equipped school facility. The applicant will be required to show in such cases that the added cost is being met other than from payments under this part.

(20 U.S.C. 634, 638, 644(g))

(c) Payments to an eligible applicant whose maximum entitlement for a fiscal year includes pupils eligible for payment under section 5(a) (1), (2) or (3) of the Act as residing with a parent either residing on or employed on a low-rent housing property, as defined in the Act, will be made only after all other applications under subparagraphs (2) and (3) of section 5(a) have been approved for that fiscal year. The applications with entitlements computable on account of pupils eligible under these categories will be listed in a separate priority order in accordance with the priority index of the application as initially processed.

(20 U.S.C. 633)

§ 114.42 Certification of payments under section 14.

Payments to an applicant under section 14 of the Act will be made only on the basis of a complete application satisfying conditions for payment under the Act and this part, and will be restricted in amount to the cost of providing minimum school facilities for unhoused children; however:

(a) With respect to payments under section 14(a) of the Act, except for applications with respect to which the Commissioner has under § 114.35 waived the substantial percentage requirement, the Federal share of the cost of a project which will be certified for payment will not exceed the difference between (1) the cost of constructing minimum school facilities in the school district of the applicant for the estimated number of children who will be in membership in the schools of such applicant at the close of the second year following the close of the increase period under consideration and who will otherwise be without such facilities, and (2) the amount which the Commissioner determines to be practicably available to the applicant from other sources, including local sources (for example, unused bonding capacity), and State and other Federal sources (for example, payments by the United States under any other provisions of the Act or any other law). Such payments will be made upon such terms and in such amounts, subject to the provisions of section 14(a) of the Act and this part, as the Commissioner deems to be in the public interest.

(b) With respect to payments under section 14(b) of the Act, except for applications with respect to which the Commissioner has under § 114.36 waived the substantial percentage requirement, the Federal share of the cost of a project which will be certified for payment will not exceed that portion of the cost of constructing minimum school facilities in the school district of the applicant which the Commissioner determines (1) is attributable to children who reside on Indian lands and who will be in membership in the schools of such applicant at the close of the second year following the close of the increase period under consideration and who will otherwise be unhoused, and (2) has not been, and is not to be recovered by the applicant from other sources, including payments by the United States under any other provisions of the Act, or any other law.

(c) With respect to payments under section 14(c) of the Act, except for applications with respect to which the Commissioner has under § 114.37 waived the substantial percentage requirement, the Federal share of the cost of a project when certified for payment will not exceed the difference between (1) that portion of the cost of constructing minimum school facilities in the school district of the applicant that the Commissioner determines is attributable to children who are inadequately housed by minimum school facilities and who will be in membership in the schools of such applicant at the close of the second year following the close of the increase period under consideration and who will otherwise be without such facilities, and (2) the amount which the Commissioner determines to be practicably available to the applicant from other sources, including local sources (for example, unused bonding capacity), State and other Federal sources (for example, payments by the United States under any other provisions of the Act or any other law). Such payments may be made upon such terms and in such amounts, subject to the provisions of section 14(c) of the Act and this part, as the Commissioner may consider to be in the public interest, less the amount of financial resources which the Commissioner determines to be practicably available to the applicant from local, State or other Federal sources.

(20 U.S.C. 644(c))

§ 114.43 Payments.

(a) *Basis of payments.* The initial payment, except under section 10 of the Act, will be 10 percent of the approved estimated Federal share of the project cost. Payment of the remainder of the estimated Federal share shall not exceed the cost of the project.

(b) *Excess cost contracts.* No construction contract exceeding the estimated cost as shown in the project application shall be entered into without prior approval of the Commissioner.

(20 U.S.C. 644, 636, 637, 644(f), 1232(c); FMC 74-7)

Subpart F—General Provisions With Regard to Construction of Minimum School Facilities

§ 114.51 Works of art.

The cost of works of art (as defined in Part 100 of the General Provisions for Office of Education Programs (45 CFR Part 100)) when included in an approved construction project financed in whole or in part with Federal funds under the Act, shall not exceed 1 percent of the Federal share of the total cost of the project, exclusive of the cost of movable equipment. Nothing contained in this part, however, shall be deemed to bar an applicant, with approval of the State educational agency, from including works of art in excess of 1 percent of such Federal share with the use of nonfederal money.

(20 U.S.C. 645(10)(B))

§ 114.53 Excellence of architecture and design of minimum school facilities.

Local educational agencies shall give due consideration to excellence of architecture and design when constructing minimum school facilities under the Act. The applicant shall furnish an appropriate assurance to this effect and any other evidence that such consideration has been given as may be required by the Commissioner.

(20 U.S.C. 645(10)(A))

§ 114.55 Applicability of General Provisions Regulations.

(a) Provisions contained in Parts 100 and 100a of the regulations entitled "General Provisions for Office of Education Programs" are applicable to programs conducted under the Act, with the following exceptions:

(1) Section 100a.26b (Criteria for review of applications);

(2) Section 100a.161 (Title to site);

(3) Subpart L, §§ 100a.200–220 (Property management requirements);

(4) Section 100a.233 (Sale of real and personal property); and

(5) Section 100a.235 (Other program income).

(b) It should be noted that certain of the provisions in such regulations are not, by their own terms, pertinent to activities which may be conducted pursuant to the Act, such as:

(1) Section 100a.19 (Cooperative arrangements);

(2) Section 100a.43 (Application for Federal assistance (nonconstruction projects));

(3) Section 100a.45 (Application for Federal assistance (short form));

(4) Section 100a.62 (Payments methods for nonconstruction projects);

(5) Section 100a.82 (Institutions of higher education);

(6) Section 100a.83 (Nonprofit organizations);

(7) Subpart H, §§ 100a.90–94 (Matching and cost sharing);

(8) Section 100a.122 (Loan guarantees);

(9) Section 100a.234 (Royalties); and

(10) Section 100a.258 (Leasing facilities).

§ 114.58 Procurement of school facilities.

(a) All procurement of school facilities under the Act, including initial equipment, shall be made in accordance with Subpart I of Part 100a of the General Provisions for Office of Education Programs (45 CFR Part 100a, Subpart I).

(b) Plans and specifications, as appropriate, of school facilities provided under sections 9, 10, and 14 of the Act must, in advance of progressing to the next development stage, be approved by the Commissioner from the viewpoint of educational adequacy.

(c) Bid and contract documents shall be submitted to the Commissioner for his approval in accordance with such procedures as he may prescribe.

(d) Equipment procured with payments under the Act must be approved by the Commissioner before invitations for bids or requests for proposals as to the acquisition of such equipment are issued. In order to obtain such approval, a list of all equipment to be procured (indicating estimated quantities, costs and specifications) must be provided to the Commissioner for his prior approval.

(e) When total funds required for the low equipment bid or proposal received are in excess of the approved equipment budget, additional funds needed to make the award must be provided by:

(1) Adjusting the approved estimate of other budget items (if surplus funds can be identified) for transfer to the equipment budget item;

(2) The applicant providing all the necessary additional funds from sources other than the Act; or

(3) Increasing the Federal contribution to the project if entitlement is available.

A written proposal must be submitted to the appropriate O. E. Regional Program Officer for veview and recommendation for decision regarding how such additional funds are to be provided. If method (i) is proposed, those approved project budget items in which there are surplus funds available for transfer must be identified. If method (ii) is proposed a written certification signed by the applicant's authorized representative must be furnished, stating that the cost of the bid overrun will be financed with applicant funds. Regardless of how the cost of the bid overrun is financed, it will be necessary to obtain prior approval in order that a revised project budget may be issued amending the approved equipment budget estimate.

(f) Substantial changes in lists of equipment previously approved to be procured must be approved in advance.

(g) A list of equipment procured with payments under the Act and the cost thereof must be furnished by the applicant and certified as having been received before final payment will be made.

(20 U.S.C. 636, 637)

Subpart G—Sections 9 and 10

§ 114.61 Conditions for assistance under section 10.

The Commissioner may make arrangements for constructing or otherwise providing minimum school facilities under section 10 of the Act under one or more of the following conditions:

(a) No tax revenues of the State or any political subdivision thereof may be expended for constructing or for otherwise providing school facilities on Federal property which is leased to the local educational agency which will operate the school for pupils residing on Federal property; or

(b) The assurances and certifications described in § 114.65 have been provided; or

(c) Other conditions, as specified in section 10 of the Act, exist.

(20 U.S.C. 640 (a), (b))

§ 114.62 Requests for section 10 school construction.

(a) In order to be approved by the Commissioner, the request for school facilities under section 10 of the Act must be (1) made by the official in control of the Federal property on which the facilities are to be located; (2) addressed to the Commissioner, Attention: Director, Division of School Assistance in Federally Affected Areas; and (3) submitted through the State educational agency for its review and recommendations.

(b) After reviewing the request and making recommendations relative to it, the State educational agency shall transmit a copy of such recommendations and the original copy of the request to the Commissioner including, when applicable, the legal citations which prohibit State or local funds from being expended for capital improvements on Federal property. Two copies of such materials must also be transmitted to the appropriate Regional O.E. Program Officer. The original request as submitted through the State educational agency will be regarded by the Commissioner as the official request.

(c) The request for school facilities to be constructed or otherwise provided under section 10 of the Act shall contain the following data:

(1) Name of the agency which will operate the school program;

(2) Assurance that an adequate site will be made available for location of the proposed facility. This site shall be subject to final review and recommendation for approval or disapproval by the appropriate Regional O.E. Program Officer after consultation with the State educational agency and the Regional Engineer, ROFEC. (A site permit including the metes and bounds description of the approved site must be received by the Commissioner before any planning activity will be authorized.)

(3) Assurance that funds under section 10 of the Act will not be used for any off-site construction.

(4) Assurance that the request will be coordinated with officials of the appropriate local educational agency when the facilities to be constructed or otherwise provided are not to be operated by a Federal agency;

(5) Pupil data, including:

(i) Number of pupils, by grade, who reside on and now attend school on the Federal property; and

(ii) Estimated number of pupils, by grade, who will reside on and attend school on the Federal property by the end of the fiscal year following the fiscal year in which the application is filed;

(6) The following data relating to family housing:

(i) Number of occupied family housing units now located on the Federal property;

(ii) Number of unoccupied family housing units now located on the Federal property;

(iii) Number of housing units to be completed on the Federal property (for which construction funds have been authorized in the current Department of Defense appropriation); and

(iv) Number of trailer or other temporary housing units. (Such units must be reported separately); and

(7) Narrative supporting statement, as may be appropriate.

(20 U.S.C. 640)

§ 114.63 Property management: Sections 9 and 10.

(a) School facilities, including initial equipment, provided by the Commissioner through direct Federal construction under sections 9 and 10 of the Act on land made available to the Commissioner for this purpose by a local educational agency or by a Federal agency shall be managed in accordance with FMC 74-7, Attachment N and this part.

(b) A site permit authorizing the use of land must be issued to the Commissioner by the Federal agency in control of the Federal property or by the local educational agency prior to the constructing or otherwise providing school facilities thereon by the Commissioner under the provisions of sections 9 and 10 of the Act. Such permit must contain:

(1) A metes and bounds description of the land to be used for the facility;

(2) Assurance of the right, if necessary, to connect to the base utility system as extended to the site boundary, or to connect with public utility systems, if necessary; and

(3) Assurance of adequate police and fire protection and construction and maintenance of roads.

(c) The Commissioner may issue to the appropriate Federal agency or local educational agency a use permit granting such agency the right to use and occupy, for school purposes, federally owned school facilities constructed under section 9 or 10 of the Act for which the Commissioner is accountable.

(1) Such use permits granted to a Federal agency must include assurances that such agency will:

(i) Conduct in such facilities an educational program for children residing on the Federal installation, comparable to that afforded children in comparable local school systems under the laws of the State;

(ii) Pay all charges for utilities and services furnished to the property;

(iii) Use the property during the term of the permit subject to such rules and regulations prescribed by the officer in charge of the installation as are consistent with the purposes for which the property is permitted;

(iv) Maintain and keep the property in good repair and operating condition on the present site, subject to reasonable instructions of the Commissioner, and immediately upon the termination of the permit as therein provided (will deliver possession of the same) to the Commissioner in as good condition and state of repair as the property is in when delivered to the agency, reasonable wear and tear and loss or damage caused by war excepted. (Repairs to or reconstruction of the property requiring expenditures in excess of $15,000,000 shall be upon plans approved by the Commissioner);

(v) Permit the Commissioner, or his authorized representatives, at any reasonable time to enter upon and inspect the property;

(vi) Submit current inventories, at the Commissioner's request, of the equipment, furnishings and appurtenances located in the facilities or on the site;

(vii) Assume responsibility, without obligation to the Commissioner, to do all things necessary and proper on its part under the applicable laws and regulations in order to settle or deny (as may be appropriate under the circumstances) liability for all claims, if any, made against the United States of America or any of its agents for damages on account of the injury to or death of any person or the damages to or destruction of any property connected with, or arising out of, the agency's use of the permitted premises;

(viii) Not assign or transfer its rights or interest under this permit, or transfer possession of, or remove, or dispose of the property or any part thereof, including any and all movable school equipment provided under section 10 of the Act (or, if applicable, under section 6 of Pub. L. 81-874) without the Commissioner's written consent; and

(ix) Assure that the operation of school facilities which may be located on the property shall be conducted without discrimination on the basis of race, color, sex, or national origin.

(2) Such use permits granted to a local educational agency shall include assurances that such agency will:

(i) Conduct in such facilities an educational program for children residing on the Federal installation, as a part of the agency's school system in accordance with the laws of the State;

(ii) Pay all charges for utilities and services furnished to the property. Payment shall be made directly to the producing or supplying company or to the Federal agency for the utilities and services produced or supplied by each, respectively;

(iii) Use the property during the term of the permit subject to such reasonable rules and regulations relative to ingress, egress, security, and non-school use as may be prescribed by the head of the Federal agency, or the officer in charge of the installation, with the approval of the Commissioner;

(iv) Maintain and keep the property in good repair and operating condition on the present site, subject to reasonable instructions of the Commissioner and, immediately upon the termination of the permit as therein provided, shall return the property to the Commissioner in as good condition and state of repair as the property is in when delivered to the agency, reasonable wear and tear and loss or damage caused by war excepted. (Repairs to or reconstruction of the property requiring expenditures in excess of $15,000.00 require prior plans approved by the Commissioner);

(v) Procure and maintain insurance for the repair and reconstruction of the facilities due to damages occasioned by risks (such as fire and the elements) to which the property may be exposed and such additional insurance as the Commissioner may require. Further, such local educational agency must provide assurance that it will promptly deliver proof of such coverage to the Commissioner, and shall give due notice to the proper insurance companies and to the Commissioner of any loss or damage to the property;

(vi) Remit to the United States any payment received by it pursuant to insurance provided which may be in excess of the cost of such repairs;

(vii) Permit the Commissioner, or his authorized representatives, at any reasonable time, to enter upon and inspect the property, and submit at the Commissioner's request current inventories of the equipment, furnishings, and appurtenances located in the facilities or on the site;

(viii) Save the United States and the Commissioner harmless from any liability or claim arising from the agency's possession, use, maintenance, and operation of the property or the fulfillment of its obligation hereunder and if the agency is insured against tort liability with respect to other school facilities which it owns and operates, it shall carry similar insurance with respect to the property herein described;

(ix) Not assign or transfer its rights or interest under the permit, transfer possession of, or remove or dispose of the property or any part thereof, or create or permit to be created a lien or charge upon or claim against the property or any part thereof, including any and all movable school equipment provided under sections 9 and 10 of the Act without the Commissioner's written consent;

(x) Assure that operation of school facilities which may be located on the property shall be conducted without discrimination on the basis of race, color, sex or national origin; and

(xi) In the case of a local educational agency whose permit includes living quarters for teachers and other local educational agency employees which were constructed under provisions of section 10 (former sections 204 and 310) of the Act and for which rental or other such fees are charged, the local educational agency must assure the Commissioner that it will submit, through the State educational agency, a revenue and expenditure report in such form as the Commissioner may require within 30 days after the end of each of the first three quarters of each year. The agency must also assure the Commissioner that, at the end of the last quarter on June 30, it will submit through the State educational agency a final revenue and expenditure report and an audit thereof.

(3) Use permits may be subject to revocation by the Commissioner for any of the following reasons:

(i) Failure of the agency to operate the property in accordance with the terms and conditions of the permit or the arrangements between the Commissioner and the agency under section 6 of Pub. L. 81-874;

(ii) Determination by the Commissioner that other arrangements will better serve the interests of the United States or the children involved;

(iii) Termination of the permit for the use of the land granted to the Commissioner by the controlling Federal agency; or

(iv) Termination of the authority and responsibility of the Commissioner to provide school facilities and make arrangements for free public education for children who reside on Federal establishments under the Act and Pub. L. 81-874, or subsequent laws of the United States.

(20 U.S.C. 639, 640(a); FMC 74-7.)

§ 114.64 Disposal of federally owned temporary school facilities provided under section 9.

(a) The Commissioner may transfer to the local educational agency title to temporary school facilities constructed under section 9 (former sections 203 and 309) of the Act if:

(1) The local educational agency to which the facilities were provided makes a written request to the Commissioner for transfer of the facilities;

(2) Such agency gives assurance of a continuing need for the temporary school facilities for school purposes;

(3) Such agency certifies that it has title to the site on which they are located, or a leasehold interest in such site for a period of time equivalent to the usable life of the facilities; and

(4) The State educational agency certifies that the use of such facilities is not inconsistent with overall State plans.

(b) The Commissioner may, as appropriate, declare temporary school facilities surplus to the needs of the local educational agency and may dispose of the facilities under procedures established by the Surplus Property Utilization Division, DHEW.

(20 U.S.C. 639.)

§ 114.65 Transfer of title of federally owned school facilities provided under section 10 to local educational agencies.

The Commissioner will transfer to a local educational agency all the right, title, and interest of the United States in and to any facilities provided under section 10 of the Act if the following conditions have been met:

(a) The local educational agency of the school district in which the federally owned school facility is located makes written request to the Commissioner for transfer of the facility;

(b) Such agency does the following: (1) Certifies that the school facilities are located within the boundaries of its school district; (2) shows that there is a need on a continuing basis for use of the school facilities by the school district for public educational purposes; and (3) gives assurance that the facilities will be used as long as needed to house the children living on Federal property for whom they were constructed, and beyond that time will continue to use such facilities for public educational purposes for any remaining usable life of the facilities;

(c) Such agency certifies that it has acquired or will acquire title to the site, or a leasehold interest in the site, or right to use and occupy the facilities located on the site for a period of time equivalent to the remaining usable life of the school facilities. Evidence of title to the site, leasehold, or other interest in the site must be presented before title to the federally owned facilities will be granted;

(d) Such agency gives assurance that the educational program provided in such transferred facilities will be conducted without discrimination on the basis of race, color, sex, or national origin;

(e) The State educational agency certifies that, under State law, such local agency is legally authorized to spend State or local funds to construct, repair, maintain, and operate school facilities for public educational purposes on land leased to it from the Federal Government; and

(f) Such State agency certifies that the use of such facilities by such local agency is not inconsistent with overall State plans for providing school facilities in the State.

The Commissioner will consider a request for the transfer to a local educational agency of school equipment provided under section 10 of the Act (or under section 6 of Pub. L. 81-874) in certain circumstances even if the school facilities in which the equipment is located are not to be transferred. Requests for the transfer of such equipment shall include information described in paragraphs (a), (b), (d), (e), and (f) of this section.

(20 U.S.C. 640(b).)

APPENDIX A

[Pub. L. 81-815, Secs. 1-15]

ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES; GUIDELINES

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Part 1—Introduction

SECTION 1.1 *Scope of guidelines.*

(a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to Federal assistance under sections 1 through 15 of Public Law 81-815 (School Construction in Areas Affected by Federal Activities). The guidelines are not requirements. Where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 631; 113 Cong. Rec. 5936, 5935 (daily ed. May 22, 1967); *United States v. Jefferson County Board of Education*, 372 F. 2d 836, 857 (1966).)

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is section 5 of the Act (20 U.S.C. 635), and the guideline affects section 114.31 of the regulation (45 CFR 114.31), the following will be placed on the line immediately following the guideline: (20 U.S.C. 636, 45 CFR 114.31). If no particular section of the regulation is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

(c) These guidelines rescind all bulletins, memoranda, and announcements previously issued by the Division of School Assistance in Federally Affected Areas.

SECTION 1.3 *Applicable statutes and regulations.*

The program of assistance for school construction in federally affected areas is to be carried out in accordance with applicable Federal statutes and regulations. Pertinent provisions include Pub. L. 81-815 (20 U.S.C. 631-645), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the regulations for Pub. L. 81-215 (45 CFR Part 114), the General Provisions for Office of Education Programs (45 CFR Parts 100 and 100a) except as specified in 45 CFR 114.66 and Federal Management Circular 74-7.

(20 U.S.C. 631-645, 1221 et seq.; 45 CFR Parts 100, 114; FMC 74-7)

Part 2—Applications of Local Educational Agencies

SECTION 2.1 *Purpose of the Act.*

Congress, in recognition of the impact which certain Federal activities may have on school construction needs, has declared it to be the purpose of the Act to provide assistance for construction of urgently needed minimum school facilities in certain areas affected by Federal activities.

(20 U.S.C. 631)

SECTION 2.2 *Categories of Federal impact.*

The following categories of Federal impact for the purpose of making Federal payments to local educational agencies are discussed in these guidelines.

(a) Section 5(a)(1): increase in numbers of children who reside on Federal property.

(20 U.S.C. 635(a)(1))

(b) Section 5(a)(2): increase in numbers of children who reside with a parent employed on Federal property situated in whole or in part in the same State as a school district or within a reasonable commuting distance of such district, or have a parent on active duty in the Uniformed Services.

(20 U.S.C. 635(a)(2))

(c) Section 5(a)(3): increase in numbers of children whose membership results from activities of the United States carried on either directly or through a contractor.

(20 U.S.C. 635(a)(3))

(d) Sections 14 (a) and (b): membership residing on Indian lands and which has not formed or will not form the basis for payment under other provisions of the Act, and

(20 U.S.C. 644 (a), (b))

(e) Section 14(c): Inadequately housed children in financially distressed school districts where Federal property constitutes a substantial part of the school district.

(20 U.S.C. 644(c))

SECTION 2.3 *Who may apply.*

Applications may be filed by a local educational agency as defined in section 15(11) of the Act and § 114.1(m) of the Regulations.

(20 U.S.C. 645(11); 45 CFR 114.1(m))

SECTION 2.4 *How to apply.*

Application forms, instructions, advice, and assistance may be obtained from each State educational agency. All questions pertaining to the preparation and filing of preapplications, applications, and requests for materials should be directed to the State Representative for School Assistance, who will respond or may forward the inquiries, where appropriate, to the Commissioner of Education.

(20 U.S.C. 636; 45 CFR 114.1 (i), (k))

SECTION 2.5 *When to apply.*

Cutoff dates for filing preapplications and applications will, as appropriate, be established by the Commissioner and published in the FEDERAL REGISTER. Copies of these periodic announcements of the cutoff dates appearing in the FEDERAL REGISTER will be provided to the State Representatives for School Assistance. Such State Representatives may be contacted for up-to-date information on current cutoff dates.

(20 U.S.C. 633, 636, 644; 45 CFR 114.1(k), 114.2)

SECTION 2.6 *Processing procedures.*

Upon receipt by the Commissioner of a preapplication for assistance:

(a) The preapplication will be tentatively reviewed on the basis of data available, and if the preapplication appears to be eligible, a tentative entitlement and priority index will be computed, the applicant will be notified of the tentative determination. All preapplications will be listed in priority rank order accordingly on a list to be maintained by the Commissioner on a nationwide basis.

(b) Upon verification of the applicant's data as shown on the preapplication, a firm maximum entitlement and priority index will be determined for each eligible applicant, the application will be listed in priority rank order, and the applicant will be informed of the basis of such action; if ineligible, the applicant will be informed as to the reasons therefor.

(c) When monies are available to reach the priority of the preapplication, funds will be reserved tentatively on the basis of the best information available at the time and the applicant will be advised to file a complete application for review and approval pursuant to 45 CFR Part 100a, Subpart B.

(20 U.S.C. 633, 636, 644, 645(7); 45 CFR 114.1 (i), (k), (s), 114.5, 114.6)

SECTION 2.7 *Instructions relating to construction of approved and funded projects.*

(a) *General.* (1) The Office of Facilities Engineering and Property Management Agency of the Department of Health, Education, and Welfare (hereinafter referred to as OFEPM) and the Regional Office of Facilities Engineering and Property Management (hereinafter referred to as ROFEPM) will provide, upon request, technical supervision and services to applicants in connection with the construction of school facilities. When appropriate, OE Program Officers (SAFA), in cooperation with representative of ROFEPM, will assist with the planning of approved projects, including examination of preliminary and final project plans and specifications, periodic inspection of construction progress and determination of the propriety of making partial payments of the estimated Federal share of the cost as construction progresses. Supervision of these technical services will be performed by the Regional Engineer, ROFEPM.

(2) The Regional Engineer, ROFEPM, may assist in preconstruction and construction activities to assure conformity with the requirements of the Act. Approval of all proposed preconstruction documents (as described in § 114.58 of the regulations), may be obtained directly from the Regional Engineer. His assistance prior to the preparation of these and similar documents will be provided upon request. In this connection, he may suggest a preliminary conference with the project architect and others if that seems desirable. The Regional Engineer will provide sufficient copies of all forms which may be used to prepare the contract documents required for the project and will aid in the review of bids received and other technical details.

(3) Special assistance may also be provided to eligible applicants under the provisions of section 14 of the Act by SAFA Program Officers.

(20 U.S.C. 636, 637, 644)

(b) *Minimum standards of construction.* Plans and specifications for a project must comply with such Federal, State, and local laws, ordinances and regulations pertaining to standards of construction and safety requirements, as may be applicable.

(16 Comp. Gen. 948 (1937))

(c) *Preparation of plans and specifications.* Upon receipt of the notice of approval of the complete application, work may be commenced on preparing plans and specifications which conform to the project description as shown in the complete application, or with such revisions as may be necessary. After all necessary State approvals have been obtained, such plans and specifications must be forwarded for the approval of the Commissioner as required by § 114.58 of the regulations. Such documents may be forwarded as follows: One copy of the final plans and specifications to the Regional Engineer (ROFEPM) and one copy to the appropriate Regional OE Program Officer (SAFA).

(20 U.S.C. 636(b)(1)(A), 637(a); 45 CFR 114.58)

(1) *Review by Regional OE Program Officer.* The Regional OE Program Officer will review the final plans and specifications for conformity with the project description as approved by the Commissioner and recommend approval or disapproval action.

(2) *Review by Regional Engineer, ROFEPM.* The Regional Engineer will review the final plans and specifications for structural adequacy, and may suggest structural changes or revisions. A notice of approval will advise the date on which advertising for bids may begin. A notice of disapproval will state the reasons for such action.

(20 U.S.C. 633, 636(b), 637(a); 45 CFR 114.58)

SECTION 2.8 *Instructions relating to purchasing non-expendable property (initial equipment) acquired with Federal funds under sections 5, 8, 9, and 14 of the Act.*

The procurement of initial equipment with Federal funds under sections 5, 8, 9, and 14 of the Act must be made in accordance with 45 CFR Part 100a, Subpart I. Such procurement must be approved in advance by the OE Regional Program Officer (SAFA) in accordance with the regulations at 45 CFR 114.58.

A copy of the pertinent documents must be forwarded to and reviewed and recommended for approval by the Regional OE Program Officer before payment may be made as described in the regulations at 45 CFR 114.43.

(20 U.S.C. 636, 644; 45 CFR 114.43, 114.58)

Part 3—Requests of Federal Agencies for School Facilities under Section 10 of the Act

SECTION 3.1 *Application procedures.*

Requests for school construction to be performed under section 10 of the Act may be made in letter form by the official in control of the Federal property on which the facilities are to be located, in accordance with procedures described in regulations 45 CFR 114.58, 114.61, 114.62 and 114.63.

(20 U.S.C. 643(b), 45 CFR 114.58, 114.61, 114.62, 114.63)

SECTION 3.2 *Processing procedures.*

Upon receipt by the Commissioner of the request:

(a) The request will be reviewed on the basis of data available, and if the request for assistance appears to be approvable a tentative cost estimate, priority grouping, and priority index will be computed and assigned. If the request is determined not to be approvable, the Federal agency will be so informed.

(b) Upon verification of data submitted as the basis of the request, the Commissioner may determine that a project should be approved. The project will be assigned a priority index within a priority group and the Regional Engineer, ROPEPM will be requested to estimate the cost of the project to be approved.

(c) When monies are available to reach the priority of the project and funds are approved for direct Federal construction, the appropriate parties will be so notified.

(20 U.S.C. 640, 45 CFR 114.4, 114.5, 114.6, 114.61, 114.62)

SECTION 3.3 *Actions relating to construction of approved and funded section 10 projects.*

(a) The Commissioner will consider recommendations of local and State education authorities, the Regional OE Program Officer, representatives of ROPEPM, and the Federal agency making the application. Educational consultants, if appropriate, may also be engaged by the Commissioner for the purpose of assisting in developing educational specifications and otherwise assisting in developing the project.

(b) The Regional OE Program Officer will:

(1) Verify the data submitted as the basis of the application and make recommendations to the Division of SAFA on the need for the requested school facilities;

(2) Review the proposed school site for educational adequacy. Request the Federal agency controlling the property to prepare the metes and bounds description, including a plot plan, to be forwarded to the Division of SAFA in compliance with § 114.63(b) of the regulations.

(3) Review design sketches and preliminary plans and outline specifications for educational adequacy and recommend to the Division of SAFA approval or disapproval of these documents and the reasons therefor;

(4) Review the final plans and specifications for educational adequacy and conformance with the approved project description and the approved preliminary plans and specifications and notify the Regional Engineer, ROPEPM, of approval or disapproval by the Commissioner of such documents; and

(5) Review all requests for initial minimum equipment submitted pursuant to § 114.58(d) and notify the OE Regional Contracting Officer and the Regional Engineer, ROPEPM, of approval or disapproval by the Commissioner. A list of initial equipment will be provided to the Regional Contracting Officer who will supervise its acquisition.

(20 U.S.C. 1221e(c)(2)(C), 20 U.S.C. 640(a)(b))

(c) The Regional Engineer ROPEPM will:

(1) Furnish the Division of SAFA with an estimate of the cost of the project to be constructed, and revisions of such estimate as may be appropriate;

(2) Negotiate architectural contracts for preparation of plans and specifications, after the estimated cost of constructing the project has been approved by the Division of SAFA;

(3) Request necessary State and local agency approvals of final plans and specifications;

(4) Secure permits for access and right of entry to project site;

(5) Monitor the execution of a contract for the construction of school facilities after approval of final plans and specifications, and

(6) Submit a final project summary stating all project costs including initial (movable) school equipment costs.

(d) The Division of SAFA will:

(1) Assist in the development of and approve the final project description;

(2) Approve the project funding and disburse funds in the appropriate manner to initiate the project;

(3) Review and approve sketches and preliminary plans and specifications, and

(4) Prepare use permits for acceptance by the operating agency upon completion of the project.

(20 U.S.C. 640(a), (b), 45 CFR 114.61, 114.62, 114.63, 114.65)

Part 4—Property Management of Facilities Constructed Under Section 10 and Certain Facilities Constructed Under Section 9 of the Act

SECTION 4.1 *Agencies may be granted use permits.*

The Federal agency or local educational agency to which use of the completed school facilities is granted, must maintain such school facilities, including equipment, in good conditions in accordance with § 114.63(c)(1)(iv) and (c)(2)(iv). The Commissioner may request periodic reports to be submitted in order to assure that the facilities and equipment are properly cared for and maintained.

(20 U.S.C. 639, 640, 45 CFR 114.63)

SECTION 4.2 *Disposal or transfer of ownership of federally owned school facilities.*

The Commissioner, upon receipt of a written request from a local educational agency in which school facilities have been provided under section 9 or 10 of the Act, may make arrangements to transfer ownership of such agency in accordance with § 114.65 of the regulations.

(20 U.S.C. 639, 640(b), 45 CFR 114.64, 114.65)

PART 115—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

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AUTHORITY: Pub. L. 81-874, as amended, 64 Stat. 1100 (20 U.S.C. 236-244), unless otherwise noted.

Subpart A—Scope and Definitions

§ 115.1 Scope.

The regulations in this part govern the provision of financial assistant and the making of arrangements under the Act with regard to local educational agencies in areas affected by Federal activities.

(20 U.S.C. 242(b))

§ 115.3 Definitions.

As used in this part:

(a) "Act" means Titles I (except section 7 thereof) and IV of Pub. L. 874, 81st Congress (64 Stat. 1100 (20 U.S.C. 236-244)), as amended.

(b) "Applicant" means any local educational agency which files an application for financial assistance under sections 2, 3, or 4 of the Act and the regulations in this part, but does not include departments or agencies proposing arrangements under section 6 of the Act.

(20 U.S.C. 240(a))

(c) "Application" means Form RSF-1, "Application for Financial Assistance for Current Expenditures for Public Schools in Areas Affected by Federal Activities" properly completed and executed, including amendments thereto, and, to the extent indicated by the applicant, any document or documents in support thereof, filed by or on behalf of an applicant requesting financial assistance under the Act and these regulations.

(20 U.S.C. 240(a), 242(b))

(d) "Arrangements" means an agreement entered into between the Commissioner and a local educational agency or a Federal department or agency for the provision of free public education under section 6 of the Act.

(20 U.S.C. 241(a))

(e) "Average daily attendance of federally connected pupils" in each pertinent category of federally connected children (sections 3(a), 3(b), and 4(a)) means the number determined in accordance with section 403(10) of the Act in the manner described in this paragraph. At the option of the applicant, a second membership count may be made as set forth in paragraph (f) of this section.

(1) At some specific date not earlier than the fourth day of the legal school session of the regular school year and prior to the cutoff date for filing Form RSF-1, a membership count of all pupils claimed in the various federally connected categories must be made either by (i) conducting a parent-pupil survey to determine the parent's employment or active duty assignment in the uniformed services and the child's residence on Federal property or by (ii) obtaining certifications from the various employers and the appropriate housing officials as to the employment of the parents of the children claimed or residence of such children on the specific date involved. A membership count of all pupils must be made as of this specific date, which is to constitute the official membership report of the applicant local educational agency for that date.

(2) The percentage of pupils in each of the federally connected categories is determined by dividing the membership count in each such category by the total membership of all pupils receiving free public education on the date of the count.

(3) The average daily attendance (hereinafter referred to as ADA) of federally connected pupils shall then be obtained in one of the following ways:

(i) For the purposes of the application Form RSF-1, each of the percentages obtained in paragraph (e)(2) shall be multiplied by the ADA to the date of the count of the total membership (as reported in the official membership and ADA report of the applicant district for such reporting period); or

(ii) For the purposes of the final report (Form RSF-3), each of the percentages obtained in paragraph (e)(2) shall be multiplied by the total ADA for the period July 1 to the following June 30. Such total ADA shall include ADA based upon free public education provided in summer school as determined in accordance with State law.

(20 U.S.C. 238(a), (b), 239(a), 244(10))

(f) "Average daily attendance of federally connected pupils when determined by two counts of all pupils" means the number determined in the manner described in this paragraph.

(1) First count of membership of each category of federally connected children must be made as described in paragraph (e) of this section. At the option of the applicant, a second count of membership may be made at a later date during the last quarter of the regular school year and uniformly for the entire local educational agency.

(2) A membership count of all pupils, made as of the same dates as the counts of federally connected children, will constitute the official membership report of the applicant school district for those dates.

(3) The percentage of pupils in each of the federally connected categories shall be determined as provided in paragraph (e) of this section.

(4) The two percentages obtained by the two counts for each category of federally connected pupils shall be added and the sum divided by two to compute an average percentage for that category.

(5) The percentage so obtained shall be multiplied by the total ADA for the period July 1 to the following June 30. Such total ADA shall include ADA based upon free public education provided in summer school as determined in accordance with State law.

(20 U.S.C. 238 (a), (b), 239(a), 244(10))

(g) "Entitlement" means the amount of assistance which an applicant would receive under the formula prescribed under sections 2, 3, or 4 of the Act if the appropriations for a fiscal year were adequate to pay all claims.

(20 U.S.C. 240 (a), (b), (c))

(h) "Federal property" is used in this part as defined in the Act at 20 U.S.C. 244(1). For the purpose of this definition:

(1) All property of the United States which was transferred to the United States Postal Service and which was, prior to such transfer, treated as Federal property for the purposes of the Act, shall continue to be treated as Federal property for such purpose for two years beyond the end of the fiscal year in which such transfer occurred.

(20 U.S.C. 244(1); Pub. L. 92-277 (April 26, 1972), 86 Stat. 124)

(2) Federal ships which are owned by the United States and whose home ports are located on Federal property are Federal property.

(20 U.S.C. 244(1))

(i) "Financial assistance" means the payment made to an applicant school district under section 5(b) of the Act by the Department of the Treasury upon authorization of the Commissioner.

(20 U.S.C. 240(b))

(j) "Parent-pupil survey" means a questionnaire provided by the applicant and which is to be filled out by a parent in order to substantiate residence or employment on Federal property. Such survey must include:

(1) Pupil-enrollment information (this information may also be obtained from school records) including:

(i) Name of pupil;

(ii) Date of birth; and

(iii) Name of public school, grade, and teacher.

(2) Pupil-residence and parent-employment information, including:

(i) Address of pupil residence (including the name of the Federal facility if such residence is on Federal property); and

(ii) Name (as it appears on employer's payroll record) of parent (mother, father, legal guardian or other person standing in loco parentis) who is employed on Federal property and with whom such pupil resides, unless the parent is a member of the uniformed services on active duty;

(iii) Name and address of Federal property on which the parent is employed unless the parent is a member of the uniformed services on active duty;

(iv) If the parent is a member of the uniformed services on active duty, the name, the rank, serial number, and branch of service of such parent;

(v) If the parent is a civilian employed on a Federal vessel, the name of vessel, hull number, and name of controlling agency must be obtained;

(vi) The signature of the parent supplying the information and the date of such signature must be obtained; and

(vii) The name and address of the employer (unless parent is a member of the uniformed services on active duty).

(3) Only in unusual circumstances may partially completed survey forms or survey forms which are signed by a person other than parent or person standing in loco parentis be accepted on membership survey forms. In such instances the survey form must show why the parent did not sign, and when, how, and from whom the residence and employment information was obtained.

(20 U.S.C. 240(a)(1))

(k) "Prorated entitlement" means the amount of financial assistance which an applicant will receive under the adjustment formula prescribed in the Act (including any other pertinent modifications or amendments), if the appropriations for a fiscal year are inadequate to pay all claims under sections 2, 3, 4, or 6 of the Act.

(20 U.S.C. 240(c))

(l) "Revenues derived from local sources" include the following:

(1) Tax funds derived from real estate;

(i) Such tax funds derived from real estate include:

(a) Locally received funds which are derived from local taxation of real property;

(b) Tax funds which are received on account of Wherry-Spence housing projects (12 U.S.C. 1702, et seq.) located on private property; and

(c) All local real property tax-funds which are received from either the county or the State, serving as a collecting agency, and which are returned to the local educational agency for expenditure by that agency.

(ii) Such tax funds derived from real estate do not include:

(a) Any payments under this Act or the Johnson-O'Malley Act (25 U.S.C. 452);

(b) Tax payments which are received on account of Wherry-Spence housing projects located on federally owned property; or

(c) Local real property tax funds which are received by the State and distributed to local educational agencies on a per-pupil or formula basis; or

(2) Taxes or receipts which are received from the county, and any other local tax or miscellaneous receipts.

(20 U.S.C. 238(d)(3); H. Rept. No. 22-87, 81st Cong., 2d Sess., (June 30, 1950), 12-15)

(m) "State aid" with respect to free public education means any contribution, no repayment of which is expected, made by a State to or on behalf of a local educational agency within the State for the support of free public elementary and secondary education. Such assistance does not include payments by a State to or on behalf of a local educational agency which are made as a result of a "major disaster" as such term is used in section 7 of Pub. L. 81-874.

(20 U.S.C. 240(d)(1))

(n) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Science Services Administration, and Public Health Service.

(20 U.S.C. 238(a) and (b), 50 U.S.C. 1121, 82 U.S.C. 1314)

(o) "Working on Federal property" means employed on Federal property, as defined in the Act and the regulations in this part. Such term includes the following:

(1) A person who is employed (whether a regular employee or self-employed) either part time or full time in lumbering, farming, or grazing operations which are carried out entirely or partly on Federal property if, during such period, he spends a greater part of his working time on the Federal property than on the non-Federal property;

(2) A person who lives on Indian lands which are Federal property, as defined in the Act and these regulations, and who is not regularly employed on non-Federal property; and

(3) A portion, to be determined by the Commissioner, of the persons working on commingled Federal and non-Federal properties other than those covered by paragraph (o)(1) of this section.

(20 U.S.C. 238(a) and (b), 244(1); H.R. No. 703, 83d Cong., 1st Sess., (July 3, 1953), 26, H.R. 1532, 85th Cong., 2d Sess., (March 19, 1958), 51)

CROSS REFERENCE: Certain other pertinent definitions may be found in the "General Provisions for Office of Education Programs" § 100.1 (45 CFR 100.1).

Subpart B—Applications

§ 115.10 Applications.

Any local educational agency seeking financial assistance under sections 2, 3, or 4 of the Act shall, as a condition of entitlement, file with the Commissioner of Education an application for financial assistance. Such application shall be transmitted through the appropriate State educational agency, on Form RSF-1 (entitled "Application for School Assistance in Federally Affected Areas (Title I of Pub. L. 874)") and shall show the basis for entitlement under the Act and regulations. Copies of all application forms may be obtained from that State, educational agency which serves the applicant local educational agency.

(20 U.S.C. 240(a))

§ 115.11 Final date for filing applications.

(a) Except as otherwise provided in this section, the final date for filing an application for financial assistance under sections 2, 3, or 4 of the Act shall be January 31st of the fiscal year for which such assistance is sought; except that, whenever such a final date falls on a Saturday, Sunday, or other Federal holiday, the final date for filing an application shall be the next succeeding business day. Each application must be received by the Commissioner on or before the final filing date, after transmittal through and certification by the State educational agency. The applicant is responsible for obtaining the certification of the State educational agency and for securing a timely transmittal of the application to the Commissioner. In order to give the State educational agency time in which it may process the application, the applicant should file its application with the State educational agency by January 2 of the fiscal year for which assistance is sought.

(b) With respect to an applicant whose eligibility for financial assistance under the Act is established during the fiscal year by initiation or reactivation of an activity of the United States, or by the acquisition of Federal property, the filing date shall be extended 60 days beyond the date of such initiation, reactivation, or acquisition.

(c) With respect to an applicant whose eligibility for financial assistance is established pursuant to an amendment to the Act which is enacted during the fiscal year for which assistance is sought, the filing date shall be extended 60 days beyond the effective date of such amendment.

(d) With respect to a local educational agency which, during the fiscal year for which assistance is sought, acquired administrative control and direction of free public education in all or any portion of an area of a previously existing local educational agency (under the circumstances described in § 115.20(b)), the filing date of an application under section 3 and 4 of the Act shall be extended to the extent necessary to allow 60 days beyond the effective date of such change in district organization.

(e) Where an application is filed directly with the Commissioner on or before the applicable filing date and a copy is filed with the State educational agency on or before the applicable filing date, then the application will, for good cause shown, be considered to be timely filed if, within fifteen days after the applicable filing date, the applicant obtains and files with the Commissioner the approval, verification, and certification of the application by the State educational agency.

(f) A timely filed application may be amended to apply for additional or alternative financial assistance based upon (1) the initiation or reactivation of a Federal activity, (2) the acquisition of property by the United States after the application was initially filed, (3) an amendment to the Act after the application was filed, or (4) a determination of the Commissioner first communicated to the applicant that property is or is not "Federal property" under section 403(1) of the Act. Such amendment must be filed within 60 days of such occurrence or communication and no later than on or before the 30th day of September following the fiscal year for which payment is requested.

(g) A timely filed application may be amended to apply for additional or alternative financial assistance under sections 3(c)(4), 3(d), 3(e), or section 4(d) of the Act if such an amendment is (1) filed no later than September 30 of the fiscal year following that for which asistance is sought and (2) accompanied by a detailed narrative giving the basis of the claim and a justification of the requested entitlement.

(20 U.S.C. 240(a))

§ 115.12 Applications under sections 2, 3, and 4 received after deadline not considered for payment.

Applications under sections 2, 3, and 4 of the Act which are received by the Commissioner after the applicable filing date prescribed by § 115.11 will not be approved.

(20 U.S.C. 240(a))

§ 115.13 Notification to applicants.

Each applicant will be notified of the results of the review of its application under one or more of the sections or subsections of the Act, and the estimated amount of the payment, if any, to be made.

(20 U.S.C. 240)

§ 115.14 Assurances and parental participation with respect to Indian children for applications under section 3.

(a) Each application for payment under section 3(a) or section 3(b) of the Act which is based upon children who reside on or reside with a parent employed on Indian lands (as included within the definition of Federal property under section 403(1)(A) of the Act) shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the applicant local educational agency.

(Pub. L. 92-318, section 411(a); (20 U.S.C. 240(a)(2)))

(b) Each application based upon children as described in paragraph (a) of this section shall:

(1) Set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated in consultation with, and with the involvement of parents of, the children to be served by such programs and projects. Applicants must submit a brief statement describing such policies and procedures with each application;

(2) Be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) Set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public. Applicants must submit a brief statement describing such policies and procedures with each application.

(c) It shall be the responsibility of the applicant local educational agency to provide to the parents of such children:

(1) Opportunity to make recommendations to the local educational agency concerning the needs of the Indian children;

(2) Opportunity to consult with the local educational agency concerning the ways in which such parents can assist their children in realizing the benefits to be derived from the educational program of the local educational agency; and

(3) Opportunity to present their views to the appropriate school personnel concerning the educational program and parental participation.

(20 U.S.C. 1221d; Pub. L. 92-318, section 411(a))

§ 115.16 Civil rights.

(a) Federal financial assistance is subject to the regulations in Part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President to effectuate the provisions of Title VI of the Civil Rights Act of 1964. (Pub. L. 88-352)

(42 U.S.C. 2000d)

(b) Federal financial assistance is also subject to the provisions of Title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Pub. L. 92-318, Title IX)

Subpart C—Payment

§ 115.20 Changes in boundaries, classification, and governing authority of applicants.

(a) If the applicant is a party to any merger, consolidation, annexation, deconsolidation, or other similar action which may affect its boundaries, identity, governing authority, classification, or control, it shall notify the Commissioner as soon as practicable of the effective date of that action, the extent and character thereof, and the legal authority under which the action was or is to be effected. Such notification must include the following information:

(1) The effective date of change in boundaries or organization, for all purposes, including administrative and fiscal;

(2) Identification by name, district, number, and address of all former agencies involved and of the application number for each applicant involved in the change;

(3) A statement describing the specific type of change, with a citation of the section or sections of the State law under which the change was accomplished;

(4) The legal name of the resulting successor agency (even if the name and legal classification of the applicant agency are retained after a change);

(5) A statement as to whether assets and liabilities of the former agency or agencies have been transferred to the successor agency, or whether a settlement agreement has been made and, if so, the effective date of such action;

(6) A statement as to whether a new board of education has or will assume control and management of the successor agency and, if so, the effective date thereof; and

(7) The name and address of the authorized representative for purposes of the Act, who shall be duly designated by the governing body of the successor agency. Evidence of such official designation must be submitted in the form of a copy of the resolution duly recorded in the minutes of the proceedings of the governing body.

(b) A local educational agency shall not be entitled to any payment on the basis of an application under section 3 or 4 of the Act (except as provided in paragraph (c) of this section) if (1) the change in the organization of such local educational agency is effective within the fiscal year covered by the application and occurs prior to the close of the regular school term of such year and (2) such local educational agency thereby ceases to be a legally constituted local educational agency. However, except as provided in § 115.21(c), a local educational agency which assumes administrative control and direction of free public education in all or a portion of the area of such previously existing applicant, may (if it is not already an applicant under the section involved or if it files an application in accordance with § 115.11(d)) have its entitlement under section 3(c)(2) or 4(a)(1) of the Act for the entire fiscal year determined on either of the following bases, which ever is more favorable to it:

(1) On the basis of the entire area under its jurisdiction on the last day of such year; or

(2) On the basis only of the area acquired by the local educational agency from the previously existing local educational agency, except that the latter basis may only be used (i) for an application under section 3 of the Act for which a favorable finding has been made (or would have been made in due course but for the change in district organization) on the basis of the estimates required under section 3(c)(2) of the Act with respect to the previously existing agency, and (ii) for an application under section 4 of the Act for which such a favorable finding has been made (or would have been made in due course but for the change in district organization) under section 4(a)(1).

(c) Any payment made to a local educational agency prior to the date on which the first sentence of paragraph (b) of this section became applicable to it must be repaid to the United States except to the extent that (1) it is accounted for by the adjustments made in the entitlements of any successor applicant local educational agency pursuant to either paragraph (b) of this section or paragraph (c) of § 115.21 and (2) any balance remaining thereafter is found by the Commissioner not to be in excess of the amount to which the preexisting local educational agency would have become entitled on the basis of the number of federally connected children who were (i) not covered by any other application and (ii) to whom free public education was provided by the previously existing local educational agency or by any successor non-applicant local educational agency.

(20 U.S.C. 237(c), 244(6)(A))

§ 115.21 Payment under section 3 when percentage eligibility requirement is not met.

(a) Pursuant to the exception provision of section 3(c)(2)(B) of the Act, an applicant will not be required to meet the 3 percent eligibility requirement of that section if in either of the two years preceding the year of application the applicant met such percentage requirement and was entitled to a payment under section 3 of the Act. However, in the second year following the year in which the applicant last met the percentage requirement and was entitled to a payment, the payment under section 3 of the Act shall be reduced by 50 percent.

(20 U.S.C. 238(c)(2)(B))

(b) If an applicant local educational agency was not in existence in either one or both of the two fiscal years preceding that for which application is made, that agency may nevertheless receive the benefit of the provisions of paragraph (a) of this section if that agency is (i) composed only of territory which was formerly included in a predecessor agency which met (or predecessor agencies all of which met) the percentage eligibility requirement contained in section 3(c)(2)(B) of the Act and (ii) such predecessor agency or agencies received a net payment under section 3 of the

Act for the fiscal year two years prior to that for which application is made.

(20 U.S.C. 238)

(c) If any local educational agency which had timely filed an application under section 3 of the Act and was entitled to payment by virtue of paragraph (a) or (b) of this section ceases to be a legally constituted local educational agency as a result of a district reorganization which is effective prior to the close of the regular school term within the fiscal year covered by the application (thereby becoming subject to the provisions of § 115.20(b)), a successor local educational agency which: (1) Files an application in accordance with § 115.11(d) (unless already an applicant under section 3) and (2) assumes administrative control and direction of free public education in all or a portion of the area of such previously existing applicant prior to the close of the regular school term of such previously existing applicant, shall be entitled to have its application processed on the basis of the: (i) area acquired from the previously existing local educational agency, and (ii) rights of that agency, without regard to the 3 percent requirement, subject to appropriate adjustment on account of payments made to such previously existing local educational agency.

(20 U.S.C. 238, 244(6)(A))

(d) A reduction in the number of children resulting from a decrease in, or cessation of, Federal activities or a failure of such activities to occur, to whom sections 3(a) or 3(b) of the Act applies and for whom a local educational agency made preparations to provide free public education during a fiscal year, shall be deemed to be substantial when such reduction in number equals that of the qualifying percentage as provided for in section 3(c)(2)(B) of the Act and at least ten in ADA.

(20 U.S.C. 238(e))

§ 115.22 Election under section 4(c).

Pursuant to section 4(c) of the Act, a local educational agency may elect to count for eligibility and payment under section 4(a) of the Act the entire increase in the number of children who are (a) in average daily attendance at its schools during the fiscal year and (b) otherwise eligible to be counted under section 3 of the Act. Such an election may be made only if an application under section 4 is timely filed on Form RSP-1 in accordance with § 115.11. Such an election is not subject to change after, and shall become final upon, the date of final payment for the fiscal year involved.

(20 U.S.C. 239(c))

§ 115.23 Payments under section 4(a).

(a) Payment under section 4(a) is intended to compensate a local educational agency for sudden and substantial increases in pupils whose attendance in school during the current school year is a direct result of Federal activities. Such payment may be made only when the Commissioner determines that (1) although the applicant has made a reasonable tax effort, the education of such increased number of children places a substantial and continuing financial burden on the applicant and (2) the applicant cannot secure from other sources funds which are adequate to provide for these children a level of education equivalent to that maintained in generally comparable school districts in the same State.

(20 U.S.C. 239(a))

(b) In the first fiscal year following payment under section 4(a), a payment not to exceed 50 percent of the entitlement in such preceding year under section 4(a) will be made, subject to the availability of funds. Such payment may not include any entitlement due to those increases in section 3(a) or 3(b) of such preceding year for which payment was made.

(20 U.S.C. 239(a))

(c) No payments will be made pursuant to section 4(a) of the Act unless (1) the increase in ADA of federally connected pupils in the current year over the ADA of such children in the preceding year is at least equal to 5 percent of non-Federal ADA in the preceding year, and (2) the increase in the current total ADA over the preceding year's total ADA is at least 5 percent of the preceding year's total ADA.

(20 U.S.C. 239(a)(1))

(d) No payments will be made pursuant to section 4(a) of the Act unless the parents of the pupils entering the schools of the local educational agency for the first time during the current school year enter the area of that agency to accept employment because of Federal activities on or after February 1 of the preceding year. An increase in activities of the United States for the purpose of section 4(a) of the Act may be found to have occurred in circumstances which include the following:

(1) Activities resulting from Federal contracts in the current fiscal year when the number of employees engaged in such Federal activity increased over the preceding fiscal year; and

(2) Activities where production resulting from Federal contracts changed so as to require employees with new skills for such production, and therefore new inmigrant employees resulted.

(e) Activities of those persons who were not employed by the United States or by a contractor of the United States shall not be considered to be a direct result of activities of the United States for the purposes of section 4(a).

(20 U.S.C. 239(a)(1); 89-750, House Report No. 708, July 3, 1966, 12)

§ 115.24 Reduction of financial assistance under sections 2, 3, and 4 due to insufficient appropriations.

Except as otherwise provided by law and in § 115.27 of this part," if the funds appropriated for a fiscal year are not sufficient to pay in full the total amounts which all applicants whose applications have been considered for payment pursuant to this part are entitled to receive under sections 2, 3, and *4 of the Act or any subsection thereof* for such fiscal year, the Commissioner will reduce the amounts which he certifies under section 5(b) of the Act for such fiscal year for payment to each such applicant by the percentage by which the funds so appropriated are less than the total necessary to pay such applicants the full amount which they are entitled to receive under the Act.

(20 U.S.C. 240(b), (c))

§ 115.25 Adjustment in entitlement for reductions in State aid.

(a) The amount which each local educational agency in a State is otherwise entitled to receive under section 2, 3, or 4 of the Act for any fiscal year shall be reduced in the same proportion (if any) that the State has reduced for that year its aggregate expenditures (from non-Federal sources) per pupil for current expenditure purposes for free public education below the level of such expenditures in the second preceding fiscal year. The Commissioner may waive or reduce this reduction whenever in his judgment exceptional circumstances exist which would make its application inequitable and would defeat the purposes of the Act. In order to determine whether such adjustment is appropriate, it will be necessary for each State to report data each year which will enable the Commissioner to compare the per pupil expenditures in the current and in the second preceding fiscal year. Each State shall report, in writing, in accordance with the requirements of this section:

(1) *General.* Data must be prepared and reported on the same basis for each of the two years being compared. The basis on which the computations were made and such other explanations as appear pertinent shall be included. Financial data shall be reported on a cash basis. Pupil data shall be reported on an average daily attendance basis;

(2) *Per pupil costs.* The per pupil cost for each of the two years must be included, as well as the total State aid expenditure and that the total number of pupils used as a basis for computing the per pupil cost;

(3) *State aid.* Only State aid paid to local districts with respect to free public elementary and secondary education during the period July 1 through June 30 may be included in the data submitted, regardless of the fiscal year which may be utilized by the applicant for other purposes:

(i) Such data shall be prepared in accordance with the following:

(*a*) Whenever practicable, such data should include only State funds paid for current operating expenses;

(*b*) The total amount of State aid payments shall be included if such funds were paid for capital outlay and other purposes but were not specifically earmarked for such purposes;

(*c*) Local funds raised by a local educational agency or a county and all Federal funds received by the State regardless of the purpose for which received shall also be included.

(d) Shared-revenue payments made to the States and redistributed to local educational agencies are considered to be Federal funds.

(ii) Such data shall exclude the following:

(a) The amount of State aid earned by an applicant local educational agency in one year to be paid the following year; and

(b) State aid payments earmarked for capital outlay purposes.

(4) *Pupil data.* The State may adopt whatever measures are appropriate to convert pupil data to average daily attendance providing that the conversion is made on the same basis for each year being compared.

(20 U.S.C. 240(d)(1))

(b) Any changes in State law, policies, or procedures which may affect the operation of section 5(d)(2) of the Act must be reported by the State to the Commissioner in accordance with paragraph (c) of this section.

(20 U.S.C. 240)

(c) The data and information which is required to be reported in accordance with § 115.25 (a) and (b) shall be sent to the Commissioner in two reports. An initial report and a final report for each year. The initial report shall be submitted by February 1 of each year. Data in the initial report for the second preceding year and data in the final report should be final data based on actual amounts expended and pupils in attendance. However, data for the current school year may consist of estimates. The final report shall be submitted by September 30 of each year. If adjustments in current year data may be required after this date, the State must so indicate in transmitting the final report.

(20 U.S.C. 240)

§ 115.26 Failure or refusal of a local educational agency to educate children living on Federal property.

If, for any fiscal year for which section 6(f) of the Act is effective, no tax revenues of a State or of a political subdivision of a State may be expended for the free public education of children who reside on Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then that property shall not be considered to be Federal property for the purpose of computing entitlements under sections 3 and 4 of the Act of local educational agencies within that State with respect to children living off that property with parents who are employed thereon. Furthermore, deductions shall be made from the entitlements of certain local educational agencies in the circumstances and manner described in the second sentence of section 6(f) of the Act.

(20 U.S.C. 241(f))

§ 115.27 Further adjustments to entitlements.

(a) All payments under the Act and this part shall be subject to the following provisions in accordance with their terms in addition to those contained in § 115.24 of this part:

(1) The guarantee of 100 percentum of entitlement as provided under subsection 3(f) of the Act, applicable for fiscal year 1975 only;

(2) The "hold harmless" provision of section 305(b)(2)(A) of Public Law 93-380; and

(3) The "hold harmless" provision of section 305(b)(2)(B) of Public Law 93-380.

(b) For the purpose of computing the decrease in the number of children as provided for in section 305(b)(2)(B) of Pub. L. 93-380 and referred to in paragraph (a)(3) of this section, such decrease shall be determined in the following manner:

(1) For the fiscal year ending June 30, 1974, that part of the section 3 ADA of the applicant for such fiscal year as determined under § 115.3 (e) or (f) of this Part attributable to military installations affected by a decrease in, or cessation of, Federal activities announced after April 16, 1973, shall be subtracted from such part of the section 3 ADA as so determined for the fiscal year ending June 30, 1973;

(2) For the fiscal year ending June 30, 1975, that part of the section 3 ADA of the applicant for such fiscal year as determined under § 115.3 (e) or (f) of this part attributable to military installations affected by a decrease in, or cessation of, Federal activities announced after April 16, 1973, shall be subtracted from such part of the section 3 ADA as so determined for such applicant for the fiscal year ending June 30, 1974; and

(3) For the period beginning July 1, 1973, and ending June 30, 1975, that part of the section 3 ADA of the applicant for fiscal year 1975 as determined under § 115.3 (e) or (f) of this part attributable to military installations affected by a decrease in, or cessation of Federal activities announced after April 16, 1973, shall be subtracted from that part of the section 3 ADA as so determined for such applicant for the fiscal year ending June 30, 1973.

(20 U.S.C. 238(f), 88 Stat. 522, 533, 534.)

Subpart D—Generally Comparable Local Educational Agencies; Local Contribution Rate

§ 115.30 Determination of generally comparable local educational agencies.

(a) In the case of a local educational agency in a State (other than Puerto Rico, Guam, American Samoa, the Virgin Islands, or any State in which a substantial portion of the land is an unorganized territory for which a State agency is the local educational agency or any State in which there is only one local educational agency) the Commissioner will, after consultation with the State educational agency and the applicant, determine those local educational agencies which, in his judgment, are generally comparable to the applicant. For this purpose, the Commissioner will, based upon the recommendation of the State educational agency, classify all local educational agencies in such State into groups of agencies generally comparable to one another. In recommending to the Commissioner the classification of all local educational agencies in the State into generally comparable groups, the State educational agency shall initially establish proposed groups based upon legal classifications or justify the use of another factor as the principal factor. Unless the State educational agency can establish to the satisfaction of the Commissioner that the consideration of additional factors will not result in greater comparability, division into further groups will be required. For the purposes of such further division, consideration shall be given to grade level, size as measured by total ADA, geographical size, density of population, industralization, current revenues, aggregate value of property, percent of pupils transported, and any other relevant factors. In making its recommendations in that regard to the Commissioner, the State educational agency will furnish such information as he may require, including information justifying the factors used and financial and attendance data necessary for the computation of per pupil expenditure and local contribution rate. On the basis of the recommendation by the State educational agency, the data furnished and other information which the Commissioner may obtain, and applying the above criteria, he will determine whether all local educational agencies in the State shall be classified into generally comparable groups and, if so, will determine such groups. The pupil, financial, and other data specified above for the establishment of group rates for a fiscal year are to be submitted to the Commissioner by the State educational agency by September 1 of the fiscal year for which such rates will be applicable. These data must include the following:

(1) Number of local educational agencies in the State and in each proposed group;

(2) Total ADA for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(3) Total revenue receipts from local sources for current expenditures for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(4) Total revenue receipts from all sources (excluding monies received under Titles I, II, and III of the Elementary and Secondary Education Act of 1965) for current expense purposes for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(5) Total current expenditures (excluding expenditures from funds granted under Titles I, II, and III of the Elemen-

tary and Secondary Education Act of 1965) for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(6) Total current expenditures from local source revenues for (i) all educational agencies in the State and (ii) all local educational agencies in each proposed group;

(7) Average local contribution rate for the State and for each proposed group (paragraph (a)(6) of this section divided by paragraph (a)(2) of this section);

(8) Average current expenditure per pupil for the State and for each proposed group (paragraph (a)(5) of this section divided by paragraph (a)(2) of this section);

(9) Total number, the actual ADA, and the total allowable current expenditures for the second preceding fiscal year of children enrolled in grades 13 and 14 of all local educational agencies of States which offer these grades as free public education; and

(10) Estimated current fiscal year per pupil cost for the State (in those States in which an applicant requests an entitlement under section 3(c)(4) or 4 of the Act). The actual per pupil costs shall be submitted by the applicant to the Commissioner at such time as they become available for each group.

(20 U.S.C. 238(d), 255(5))

(b) In a State for which group classifications of generally comparable school districts cannot, in the judgment of the Commissioner, be appropriately established pursuant to paragraph (a) of this section,

(1) An applicant may submit to the Commissioner in its application the names of districts (approximately five in number) in the State which it deems generally comparable to the local educational agency of the applicant (together with all other pertinent data requested in the application by the Commissioner);

(2) The selection by the applicant of such local educational agencies shall be based upon the criteria set forth in paragraphs (a)(1) through (a)(10) of this section and shall be submitted through the State educational agency for review and comment. The Commissioner's determination will be based upon such criteria and any other relevant factors. The financial, attendance, and other data of the selected local educational agencies must be sufficient to justify the selection of such local educational agencies as generally comparable and to determine the per pupil expenditures and the local contribution rates in such agencies. On the basis of the data furnished by the applicant, or information otherwise obtained, and applying the above criteria, the Commissioner will select those local educational agencies which he determines to be generally comparable to the applicant. Such data must be submitted to the Commissioner by the State educational agency for each local educational agency deemed to be generally comparable by September 1 of the fiscal year for which application is made. Data must include the following:

(i) Comparable local educational agency data for the second preceding fiscal year compiled by the State educational agency for use by applicants in completing the comparable district table in the application for the year of application;

(ii) ADA and the current expenditures for the second preceding fiscal year of children under twenty-one years of age who are enrolled in grades 13 and 14 for all local educational agencies in States that offer these grades as free public education; and

(iii) The estimated percent of change in per pupil cost for all local educational agencies in the State, in the aggregate, for the current fiscal year from the second preceding fiscal year, for each State wherein an applicant requests an entitlement under section 3(c)(4) or section 4. Since comparable district data are submitted for the second year preceding, the estimated percent of increase factor for adjusting the per pupil cost to the current year will suffice for all purposes prior to the final payment. However, the State shall submit actual data to the Commissioner for the purpose of computing final payments (except those final payments made pursuant to section 238(c)(4) and 239 of the Act).

(20 U.S.C. 238(d), 244(5))

(c) The State agency shall not distribute group rate data or comparable district data to applicants for inclusion in applications prior to the receipt of notice that such data have been approved by the Commissioner unless such data are clearly indicated as not yet having been so approved.

(20 U.S.C. 238(d), 244(5))

§ 115.31 Computation of local contribution rate.

The local contribution rate for an applicant for any fiscal year, except as otherwise specified in section 3(d) of the Act, will be computed by the Commissioner in the following manner: He shall divide (a) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making a computation, which the local educational agencies determined pursuant to § 115.30 to be generally comparable to that of the applicant, made from revenues derived from local sources by (b) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year. The local contribution rate shall be an amount equal to the quotient so obtained.

(20 U.S.C. 238(d))

§ 115.32 Increase in or special local contribution rate.

Notwithstanding the provision in § 115.31, if the current expenditures in the local educational agencies which the Commissioner determined to be generally comparable to that of the applicant, in his judgment, are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain a level of education equivalent to that maintained in such other local educational agencies, then the Commissioner will increase the local contribution rate for such an applicant by the amount he determines will compensate the applicant for the increase in current expenditures necessitated by such unusual geographical factors.

(20 U.S.C. 238(d))

Subpart E—Records and Reports Required by the Commissioner

§ 115.40 Records and reports required of applicants.

(a) Each applicant shall maintain adequate written records to substantiate the Federal connection of pupils forming the basis for claim for financial assistance under sections 3 or 4 of the Act and shall make its records available to the Commissioner upon request for the purpose of examination or audit.

(b) Each applicant shall submit such reports and information as the Commissioner may reasonably require to determine the amount which the applicant may be paid under sections 2, 3, or 4 of the Act.

(20 U.S.C. 237, 238, 239, 240(a))

§ 115.41 Final reports by applicants under sections 2, 3, and 4.

(a) *Submission of final reports.* Each applicant shall for each fiscal year submit through the State educational agency on Form RSF-3 a final report to enable the Commissioner to determine the amount to which the applicant is entitled under the Act. Copies of this form may be obtained from the appropriate State educational agency. Such final reports must be received by the Commissioner on or before the 30th day of September following the fiscal year for which payment is requested; except that, whenever that date falls on a Saturday, Sunday, or Federal holiday, the final date for filing such final reports shall be the next succeeding business day. No certification of payment will be made after the applicable date for filing the final report for any fiscal year until the final report for that fiscal year has been received. Until all such reports for each year for which an applicant has received a payment have been received in proper form, no further payment to such applicant will be made under the Act for any subsequent year, unless the Commissioner is satisfied from other information that the payments already made for the year for which a final report is lacking do not exceed the net amount due that applicant out of the appropriations for that year.

(b) *Failure to submit final report when appropriations are insufficient.* In addition to the limitation in paragraph (a) of this section for any year for which the Commissioner is required to reduce the amounts which he certifies for payment because the funds appropriated are insufficient to pay in full the total amounts to which all applicants are entitled, unless the final report has been received by the Commissioner on or before the applicable date for filing that final report, an applicant will not be entitled to any further payment out of funds available for that fiscal year. However, an applicant which has not received its regular initial payment for that year will have its application processed for that regular initial payment if a final report is received by the Commissioner within 30 days after the applicable date for filing that final report.

(c) *Excessive entitlement.* The Commissioner may, for a fiscal year for which no final report has been received, disallow any portion of the estimated entitlement which he may determine to be excessive on the basis of such information as is available. On the basis of all available information and whether or not such a report has been submitted after the applicable date for filing a final report following the close of the fiscal year, if an applicant is found to have received funds in excess of its entitlement or prorated portion of its entitlement for that fiscal year, that excess will be deducted in computing amounts subsequently certified for payment to the applicant for the current or subsequent fiscal year. Where no such payments are due, the applicant will be required to refund such excess to the United States through the Commissioner.

(d) *Information submitted after deadline date.* No effect will be given to any report or information filed by the applicant after the applicable date for filing a final report to increase the amount computable on the basis of information filed on such date, except that, where clarifying information has been solicited in writing by the Commissioner for the purpose of processing applications and final reports, such information may be given effect if received in writing by the Commissioner.

(20 U.S.C. 240(a))

§ 115.42 Retention of records.

Local educational agencies receiving Federal payments under the Act are required to keep all records supporting the application until the completion of the administrative reviews which are regularly conducted by Federal agencies, or for three years following the fiscal year to which the application relates, whichever is earlier. The records involved which have been questioned should be further maintained until necessary adjustments have been made and the adjustments have been reviewed and cleared by the Federal agencies making such reviews.

(20 U.S.C. 240(a), 1232c(a))

§ 115.43 Reports from other Federal agencies.

Because of the requirements of section 2 and other provisions of the Act, the Commissioner requires information with respect to certain payments made by other Federal departments and agencies for the same general purposes. Pursuant to the provisions of section 402(b) of the Act, other Federal departments and agencies which made expenditures (directly or otherwise) for, or in aid or supplementation of elementary and secondary education with respect to which an application has been filed with the Commissioner, will be requested to file reports of commitments and expenditures for such purposes.

(20 U.S.C. 243(b))

Subpart F—Arrangements Under Section 6 of the Act

§ 115.50 Arrangements under section 6(a).

(a) Children who reside on Federal property shall be educated whenever possible in schools operated and controlled by local educational agencies (in accordance with State laws and standards).

(b) Insufficient funding under section 3 of the Act does not provide adequate justification for the making of arrangements under section 6(a) of the Act.

(c) In appropriate instances, when arrangements are made under section 6(a) of the Act, the provisions of section 6(f) shall be applied.

(d) To the extent practicable, the Commissioner will limit such payments to that of the per pupil cost provided for children in comparable communities in the State. In order to establish such cost, the agency or department proposing the arrangements must submit the per pupil cost data for the following agencies:

(1) The local educational agency in which all or part of the Federal property where the children reside and for which a proposal is being submitted is located, or, if the Federal property is not located within a local educational agency, one of the local educational agencies contiguous to such Federal property;

(2) The local educational agency in which the capital city of the State is located; and

(3) From one to three additional local educational agencies thought to be generally comparable to that of the schools affected by the proposal.

(20 U.S.C. 241(a); House Report No. 81-2287, June 20, 1950, 23-23)

§ 115.51 Arrangements under section 6(b).

(a) When the Commissioner makes arrangements under section 6(a) of the Act, he will under appropriate circumstances also make arrangements for those children for whose education he is authorized to make provisions under section 6(b) of the Act.

(b) Where a parent residing on the Federal property is transferred and the family moves from housing on Federal property to housing in an area adjacent to the Federal property, the dependent children will be permitted, as determined by the Commissioner, to continue in attendance at the section 6 school for the remainder of the fiscal year provided that they continue to reside in such adjacent area. Where a parent is assigned to a Federal property on which there is a section 6 school and is assigned family housing on Federal property which the operating Federal agency certifies will be available for occupancy and will be occupied within ninety (90) days from the official reporting date of such parent, the dependent children may be permitted to attend the section 6 school while residing in an area adjacent to such Federal property for the portion of the ninety-day period as required by such residence.

(50 U.S.C. 241(b))

§ 115.52 Arrangements under section 6(c).

(a) When the Commissioner makes arrangements under section 6(a) of the Act, he will under appropriate circumstances also make arrangements in connection therewith for those children for whose education he is authorized to make provision under section 6(c) of the Act.

(b) Children may be permitted to attend the section 6 schools under the provisions of section 6(c) upon submission of a proper proposal approved by the Commissioner. Such children may include only:

(1) Children of a parent employed by the United States in Puerto Rico under the following conditions:

(i) The employing Federal agency has a policy of transfer or reassignment of personnel who occupy the same or similar grade, position, or classification of the parent and the parent is subject to such policy;

(ii) Such agency normally makes reassignments or transfers of such employees to places where English is the language of instruction in the school normally attended by children of Federal employees;

(2) Children of a federally employed parent if:

(i) Such parent, with his family, has been stationed in an area in which English is the language of instruction in the schools generally attended by the children of such employees;

(ii) Such parent has been assigned to a location where the family is not authorized by the employing agency to go; and

(iii) Either of the following conditions exists:

(*a*) Such parent's home of record is Puerto Rico; or

(*b*) The home of such parent or such parent's spouse was Puerto Rico prior to their marriage; and

(3) Children of a parent who is employed as a supervisor, administrator or instructional personnel in a facility for which arrangements are made pursuant to section 6 of the Act, if both of the following conditions exist:

(i) Such parent was hired in a country in which English is the primary language; and

(ii) The family of such parent migrated to Puerto Rico from an area in which English is the language of instruction in schools generally attended by children of such employees.

(20 U.S.C. 241(c); Sen. Rept. No. 311, 89th Cong., 1st Sess., June 9, 1965, 2, H. Rept. No. 703, July 3, 1953, 83d Cong., 1st Sess., 24, 28, 67)

§ 115.53 Proposal for arrangements under section 6.

(a) Any local educational agency, or the Federal department or agency administering the Federal property on which part or all of such section 6 children reside, which believes that the Commissioner should exercise his authority under section 6 of the Act to make arrangements to provide free public education for children who reside on Federal property or in other appropriate areas, and which is willing to enter into or assist in entering into such arrangements, should file a proposal with the Commissioner, on or before April 30 preceding the fiscal year for which such arrangements would be made.

(b) Such proposal shall be in the form prescribed by the Commissioner and bear the endorsement of either the State and local educational agencies or of the appropriate officials of the Federal department or agency administering the property or properties on which the children reside, as appropriate. Such proposal shall include the following:

(1) The reasons why the Commissioner should make a determination to enter into such arrangements;

(2) The estimated number of children to be educated;

(3) Financial and educational details necessary for the Commissioner to make the determinations and arrangements required under section 6 of the Act; and

(4) The name of the local educational agency or Federal department or agency which would provide such free public education.

(20 U.S.C. 241(d))

§ 115.54 Determinations by the Commissioner pursuant to section 6.

If under section 6 of the Act the Commissioner determines that he is required to make such arrangements to provide free public education for part or all of the children on whose behalf the request is made or if, acting upon information otherwise received, he makes a determination to provide free public education for children who reside on Federal property or adjacent areas, such arrangements shall be made with a local educational agency or with the Federal department or agency administering the Federal property on which part or all of the children reside who will be provided education pursuant to the arrangements.

(20 U.S.C. 241, 243(a))

§ 115.55 Notice of Commissioner's action.

The Commissioner, after his review of the proposal, will notify the responsible Federal official or the local educational agency of his action respecting the arrangements to be made and the amount of Federal funds approved for the year's operating budget. Upon receipt of such notice the agency may take appropriate action to carry out the arrangements but should not incur any binding financial obligation prior to notification that the necessary funds have been appropriated and are available. In those cases where the education is to be provided by a local educational agency, the Commissioner will enter into an agreement with the agency which will specify the terms and conditions on which the education is to be provided and the basis on which the Federal payment will be made. The Commissioner will prepare the agreement and send it to the local educational agency for signature.

(20 U.S.C. 241(d))

§ 115.56 Arrangements under section 402(a).

(a) The Commissioner will, pursuant to proper agreement with the applicant local educational agency and a Federal department or agency, arrange with such Federal department or agency for the utilization of services and facilities and the transfer of funds for the cost thereof in the following circumstances:

(1) The local educational agency is an applicant under section 3 of the Act, and is legally or otherwise unable to provide to children residing on Federal property the particular educational services and facilities regularly furnished its other children; or

(2) The Federal agency or department cannot legally accept compensation to provide such services and facilities.

(b) The total amount of funds transferred to cover the cost of such services and facilities will be deducted from the section 3 entitlement of the local educational agency.

(20 U.S.C. 243(a))

§ 115.57 Expenditures.

In making such arrangements, the Commissioner shall not make payments for (a) expenditures made prior to his determination that he is required to make such arrangements; or (b) expenditures made subsequent thereto unless such expenditures are within the definition of "current expenditures" in section 403(5) of the Act or are within the general terms of the arrangements; or (c) expenditures in excess of the actual or reasonable per pupil expenditure of providing free public education in the applicable State.

(20 U.S.C. 241)

§ 115.58 Reports.

The local educational agency or the Federal department or agency with which such arrangements are made shall make such reports to the Commissioner from time to time as he may require to perform his functions under the Act.

(20 U.S.C. 241(d), 243(b))

§ 115.59 Termination of arrangements.

Arrangements under section 6 of the Act shall be limited to provide free public education for not more than one school year. If the Commissioner determines that the local educational agency or the Federal department or agency with which arrangements have been made has substantially deviated from the terms of the arrangements, he will so notify the local educational agency or the Federal department or agency concerned. If the local educational agency or the Federal department or agency does not within a reasonable time comply with the terms of the arrangements, the Commissioner may terminate such arrangements without further notice.

(20 U.S.C. 241)

[FR Doc.75-8879 Filed 4-7-75;8:45 am]

Appendix 2-C

federal register

TUESDAY, MARCH 22, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Final Rules and Proposed Rules

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 115]

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Proposed Rulemaking

Interim regulations for treatment of payments under State equalization programs were published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26320). A notice of proposed rulemaking was published in the same document (41 FR 26330) proposing an alternate qualifying test based on the principle of fiscal neutrality. Interested parties were invited to comment on the proposed rule. Due to complexities of interpreting the proposed rule as it relates to a wide variety of public school financing programs, the proposed rule is being republished with additional clarifying detail for additional public comment simultaneously with the publication of final regulations.

A. SUMMARY OF STATUTORY AMENDMENT AND FINAL REGULATIONS

1. *Effect of Pub. L. 93–380.* Section 305 (a)(2) (effective for Fiscal Year 1976 and thereafter) of Pub. L. 93–380 amended section 5(d) of Pub. L. 81–874 to permit States to take into account payments under Title I of that Act in determining the relative financial resources available to local educational agencies and relative financial need of those agencies if the State has in effect a program of State aid for free public education designed to equalize expenditures among local educational agencies in the State. However, Pub. L. 81–874 payments may be so taken into account only in the proportion that local revenues covered by those programs are of total local revenues for education. This proposed rule establishes an alternate qualifying test for determining whether a State has in effect such a program.

2. *Proposed additional qualifying standard.* It was apparent from a number of inquiries that the proposed fiscal neutrality standard was not well understood and that a substantial amount of clarifying detail should be added. Additional detail is added to § 115.64 and also to the appendix. The purpose of the standard, however, remains the same. As stated in the preamble to the proposed rule, that purpose was and still is "* * * to measure those school finance systems such as so-called power equalizing programs, which allow for variances in educational expenditures based on local choice but not on local wealth."

One change was to modify the title to a more accurately descriptive term "wealth neutrality". Additional detail was provided regarding how "leeway" or local unmatched funds are analyzed for wealth neutrality, how the matched or equalized portion is analyzed, and how other State funds are analyzed. Also included are provisions which are designed to measure the effects of unequal budget and expenditure restraints which prevent full participation by some districts in the equity features of the program. Additional interpretative items have been added to the appendix along with examples of how analyses will be made.

In view of the fact that the removal of local taxable wealth by the Federal acquisition of real property is one of the primary reasons for payments under the Act, the well researched principle that differences in local expenditures for education are significantly related to differences in local wealth, and that differences in student needs and local choice may require significantly different expenditures, the Commissioner feels that a test of the degree to which a State has removed local taxable wealth advantages or disadvantages is fair and appropriate alternative test under section 5(d)(2) of the Act.

A basic notion underlying the "power equalizing" type of school financing program is that of giving to each local educational agency the same power to raise revenues for education. Stated another way, the same local tax effort should yield the same revenues for education. This equal effort-equal yield principle is the essential feature of any such program with equal yield interpreted as an equal educational opportunity which may or may not mean equal dollars depending on possible differences in student needs or differences in costs of equal opportunities.

To measure the degree to which this equal effort-equal yield principle is in effect in a program, not only must the yields and efforts of local educational agencies be analyzed but any restraint on effort which makes equal yields impossible must also be considered. Thus, the standard is designed to measure as not wealth neutral both revenues which represent unequal yields for equal effort and revenues not obtainable by some local educational agencies but obtained by others, because of budget and expenditure constraints imposed by the State.

The wealth neutrality standard is set at 85 percent. While most authorities who have studied educational finance agree that substantial expenditure differences, because of differences in student needs and costs, may be necessary in order to provide equal educational opportunity, there is near consensus that differences in local educational agency taxable wealth should not be allowed to determine large differences in educational expenditures. Three national groups in recent years, the National Education Finance Project, the Advisory Council on Intergovernmental Relations, and the President's Commission on School Finance, suggested that a modest leeway, based on local wealth, is reasonable. Based on an average $1200 expenditure per pupil and 85 percent wealth neutrality, no more than $180 per pupil, on the average, could be realized by a local wealth advantage. As dicussed above, this difference is unlikely to cause significant differences in the quality of an educational program. It is possible under a program meeting the neutrality standard for a few expenditure differences to be substantially greater than the average. Such differences could only affect a small portion of the pupils in a State. Even these would necessarily be on the high side. As noted above, factors such as sparsity, unusual cost factors, etc. may justify substantial differences in a few cases. The consideration of State imposed restraints in § 115.64 will prevent a State from meeting the standard if even one local agency is denied a reasonably equitable opportunity to realize educational revenue comparable to most other agencies in the State.

Further examination of data from several States indicates that less than a quarter of the States will be able to meet either the expenditure disparity or wealth neutrality standard at the present time. Thus, taken together the standards are carefully constructed exceptions as intended by the Congress and will protect local educational agencies from unfair treatment by States concerning payments received under the Act.

B. SUMMARY OF COMMENTS, RESPONSES AND CHANGES IN THE PROPOSED RULE

The comments received concerning the proposed alternate standard were essentially the same as those received concerning the original proposed rules. In the previous section, the rationale for the appropriateness of, and the reasonableness of, the specific levels is provided. Comments are discussed below on an individual basis. After the summary of each comment, a response is set forth stating changes which have been made to the proposed rule in light of the comment, or the reasons why no change is deemed necessary.

Comment: Four commenters were in favor of adding a fiscal neutrality test but suggested that the percentage of leeway be increased; one suggested 15% and three suggested 20%.

Response: The percentage has been increased to 15 percent. At least four large educational finance studies conducted by nationally recognized experts in school finance during recent years have indicated that this percentage would fall within the range of a reasonable leeway differential. In addition, a preliminary examination of data indicates that a small number of additional States may qualify under the modified wealth neutrality standard while a large majority cannot. It is believed that the wealth neutrality and expenditure disparity standards constitute fair and reasonable alternative tests, which, in keeping with the law and its legislative history, will allow those States with a high degree of equity in their financing programs to qualify while excluding others.

Comment: Two commenters opposed the neutrality test as an alternate test.

Response: Section 5(d)(2) requires the Commissioner to provide regulations for determining when a program of State aid is "designed to equalize expenditures." A program meeting the requirements of such regulations is exempted from the general prohibition of considering payments under the Act as local resources in determining State aid. One of the obvious ways to judge a program "designed to equalize expenditures" is to measure directly the extent to which expenditures among districts are equal. The expenditure disparity test does that. In the preamble to the proposed fiscal neutrality standard, a rationale was stated for an alternative test for programs which allow for variances in educational expenditures based on local choice but not on local wealth. A wealth neutrality test is considered to be a fair and reasonable measure of a State's efforts to equalize educational opportunity while allowing a large degree of local determination. In addition, the extent to which a State has neutralized the effects of local taxable wealth in determining revenues for a local district, to that extent the State has shifted to the State as a whole one of the primary burdens of Federal activity for which Pub. L. 81-874 payments are made (loss of local revenue due to Federal acquistion of real property).

C. OTHER CHANGES

A number of typographical and technical corrections have been made. The revised proposed rule defines what wealth neutralized revenues are instead of defining unequalized revenues. Additional operational rules for making calculations and additional examples have been supplied in an appendix.

D. OPPORTUNITY FOR PUBLIC COMMENT

Parties interested in commenting on the proposed rule should submit comments to the U.S. Office of Education, Bureau of Elementary and Secondary Education, Room 2069, 400 Maryland Avenue, S.W. Washington, D.C. 20202, Attention: Mr. William Stormer.

All written and oral comments must be received not later than May 6, 1977. Comments and suggestions submitted in writing will be available in the above office between the hours of 8:30 a.m. and 4 p.m. Monday through Friday of each week.

The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.478, School Assistance in Federally Affected Areas-Maintenance and Operation.)

Dated: January 17, 1977.

EDWARD AGUIRRE,
Commissioner of Education.

Approved: March 11, 1977.

JOSEPH A. CALIFANO, Jr.
Secretary of Health,
Education, and Welfare.

It is proposed to amend Subpart G of Part 115, Title 45 of the Code of Federal Regulations, by adding § 115.64 and by revising §§ 115.62, 115.65, and the Appendix to read as follows:

§ 115.62 General qualifying standard for State aid programs.

* * * * *

(a) *General standard.* * * *

(4) Meets the standards of §§ 115.63, 115.64 or 115.65 of this subpart.

* * * * *

§ 115.64 Wealth neutrality test.

(a) *General rule.* (1) For any Fiscal Year for which a determination is made under this subpart, the Commissioner will consider a State aid program to have met the requirement of § 115.62(a)(4) if no less than 85 percent of the total State, intermediate, and local revenues for current expenditures for all local educational agencies in the State are wealth neutral revenues for the Fiscal Year for which a determination is made under this subpart.

(2) Paragraph (b) of this section sets forth rules for determining which State, intermediate, and local revenues are "wealth neutral revenues."

(b) *Categories of wealth neutral revenues.* Except as excluded under each paragraph of this section, the revenues described below are "wealth neutral revenues."

(1) *Local leeway revenues.* Wealth neutral revenues are revenues from local or intermediate sources which are not taken into consideration under any part of the State aid program designed to equalize expenditures among local educational agencies in the State, except for:

(i) Any of those revenues derived from taxes which exceed the amount of revenues that each agency would realize from its tax effort if it were the local educational agency with the least taxable wealth per pupil in the State;

(ii) Any of those revenues derived from taxes which are realized from any portion of each agency's tax effort which exceeds the maximum tax effort permitted the local educational agency in the State which, because of limitations under State law regarding the exercise of tax effort, is restricted to the least amount of per pupil revenue from State, intermediate, and local sources. These State limitations are those which are imposed on budget, expenditure, or local tax effort increases over prior year levels. However, any revenues already taken into consideration under paragraph (b)(1)(i) of this section may not be considered under this clause; and

(iii) Any of those revenues not derived from taxes which exceed the least amount per pupil of these non-tax revenues realized by any local educational agency in the State.

(2) *Local and State equalization funds.* Except as provided in paragraphs (b)(2) (i), (ii), and (iii) of this section, wealth neutral revenues are revenues realized or taken into consideration under any part of the State aid program designed to equalize expenditures among local educational agencies in the State. This includes revenues realized from State and intermediate as well as local sources. It also includes local or intermediate revenues taken into consideration for a local educational agency which does not receive State aid under any equalized part of the State aid program because the amount realized by the agency from those sources exceeds the amount of revenues guaranteed by the State aid formula.

(i) If an equalized part of a State aid program requires that local educational agencies exercise a uniform local tax effort, this category of wealth neutralized revenues does not include those revenues realized by any agency from State, intermediate, and local sources which exceed the least amount of those revenues realized per unit of need under the equalized part [illegible]he State aid program by any other agency. However, any of these excess revenues which are attributable to the special educational costs considered in § 115.61(b)(3) of this part are still regarded as wealth neutral revenues.

(ii) If an equalized part of a State aid program permits local educational agencies to exercise different local tax efforts and guarantees a uniform yield per unit of need for each unit of tax effort, this category of wealth neutral revenues does not include any revenues realized per unit of need by an agency from State, intermediate or local sources which exceed the amount of guarantee per unit of effort. However, any of these excess revenues which are attributable to the special educational costs considered in § 115.61(b)(3) of this part are still regarded as wealth neutral revenues.

(iii) If an equalized part of a State aid program subjects local educational agencies, in the exercise of tax efforts, to limitations based on prior year budget, expenditure or tax effort levels, then this category of wealth neutralized revenues does not include those revenues for any local educational agency which exceed the least amount of revenues per unit of need that could be realized by any local agency if it were exercising its maximum tax effort as permitted under those State limitations.

(3) *Other State funds.* All revenues from State sources which were not considered under paragraph (b)(2) as realized or taken into consideration under an equalized part of the State aid program. However, this category of wealth neutralized revenues does not include any revenues designed to guarantee State aid to local educational agencies with relatively high taxable wealth per pupil.

(c) The method required for calculating the percentage of wealth neutral revenues for a State is set out in the Appendix to this subpart.

§ 115.65 Consideration for exceptional circumstances.

(a) *General requirements.* A State program which does not conform to the standards of either § 115.63 or § 115.64 of this subpart may, nevertheless, qualify under this section if the Commissioner determines on the basis of information submitted by the State, that:

(1) A decision not to apply the exact disparity standard specified in § 115.63 to the program submitted by the State would be justifiable because of exceptional circumstances within the State related to disparities in current expenditures or revenue per pupil for education;

(2) A decision not to apply the wealth neutrality standard in § 115.64 would be justifiable because of exceptional circumstances related to the coverage of educational expenditures by the State equalization program;

(3) Current expenditures or revenues for education in that State will be more equalized if payments under the Act are taken into consideration under this subpart than if they are not; and

(4) The program meets the requirements of paragraph (a)(3) of this section.

(b) *Determination of "more equalized."* For purposes of paragraph (a)(3) of this section, current expenditures or revenues for education within a State are considered "more equalized" if the distribution around the mean per pupil expenditure for all local educational agencies within the State is less when payments under the Act are taken into consideration in conformity with § 115.64 of this part than when they are not, as calculated according to accepted statistical methods appropriate to the circumstances.

(c) *Specific program requirements.* A program of State aid considered under this is not considered a program designed to equalize expenditures among local educational agencies in the State unless the Commissioner finds that, in addition to meeting the requirements of the preceding paragraphs—

(1) The amount of the revenue available to local educational agencies in the State is not predominantly a function of the wealth of individual local educational agencies.

(2) The program is designed to ensure the provision of financially adequate educational programs and supportive services for every pupil in the State who is enrolled in public schools.

(3) In the determination of the relative financial need of local educational agencies, that program (i) makes provision for identifying those pupils with special educational needs (such as handicapped children, economically disadvantaged children, children with limited English-speaking ability), (ii) takes into consideration the additional costs of providing free public education for such children or categories of children, and (iii) takes into consideration the costs of providing education which might be associated with such factors as sparsity or density of population, cost of living, and socio-economic characteristics of the local educational agencies; except that nothing in this clause shall be construed to require any particular system of weighting of pupils.

(4) Such program involves a substantial percentage of school revenues.

(5) Such program is designed to provide systems and procedures for evaluating the degree to which the program is achieving its stated objectives.

(20 U.S.C. 240(d)(2); S. Rep. No. 763, 93d Cong., 2d Sess. 56 (1974); H.R. Rep. 805, 93d Cong., 2d Sess. 42-44 (1974); 102 Cong. Rec. S 8604-8607 (daily ed., May 20, 1974); *Id.*, H 7401 (daily ed., July 31, 1974); Congressional Research Service, *Public Law 874 and State Equalization Plans* 30-34 (H.R. Comm. on Education and Labor Print (March 1974).)

APPENDIX

* * * * *

2. *Determinations of wealth neutrality standard compliance under § 115.64.*

(a) The determination of the percent of wealth neutral revenues in a State program is made by:

(1) Calculating the total amount of neutral and non-neutral revenue for each category of revenues described in § 115.64(b) for each local educational agency in the State;

(2) Calculating the total neutral and non-neutral revenue for all local educational agencies in the State; and

(3) Dividing the total of neutral revenues by the total of all State, intermediate, and local revenues.

(b) In cases where per pupil amounts are necessary to make comparisons for calculations under paragraph (a) of this section, those calculations are made on the following bases:

(1) Except as provided in paragraph (b)(2), per pupil amounts of revenues are computed on the basis of the total number of pupils as determined in accordance with whatever standard measurement of pupil count is used in the State.

(2) If a State aid program uses a "weighted" pupil or other designated unit of need in determining allocations of State aid which reflect special cost differentials, a computation of per pupil revenue under paragraph (a) may be made on the basis of the "weighted" pupils or other unit of need.

There are two allowable categories of special cost differentials: (i) those associated with pupils having special educational needs, such as handicapped children, economically disadvantaged children, non-English speaking children, and gifted and talented children; and (ii) those associated with sparsity or density of population, cost of living, or special socioeconomic characteristics.

Example 1. State A has an equalization program under which each LEA is guaranteed $900 per pupil less the LEA contribution derived from a uniform required tax. A minimum of $100 per pupil is paid even if the required tax produces more than $900. Each LEA is permitted to levy additional local taxes. Additional categorical State aid is made available for special cost programs. The State has no limitations on budget, expenditure or local tax effort increases. The State is composed of three LEAs with data as shown:

	LEA No. 1	LEA No. 2	LEA No. 3
Taxable wealth per pupil	$30,000	$60,000	$20,000
Enrollment	2,000	1,000	1,000
Yield per pupil from required local tax	$700	$950	$500
Equalized State aid per pupil	200	100	400
Additional local tax per pupil	100	300	70
Additional State aid per pupil	160	150	155
Total State, intermediate, and local revenues per pupil	1,160	1,500	1,125

LEA No. 1

The $700 per pupil derived from the required local tax rate and the $200 per pupil in State equalization aid are neutral since $900 per pupil was the least amount realized by any LEA for the same required tax effort. See § 115.64(b)(2)(i). One third of the $100 per pupil from the additional local tax is not neutral since the least wealthy LEA #3 could only realize two-thirds of the revenue that LEA #1 could at any tax rate. See § 115.64(b)(1)(i). The $160 per pupil of State categorical aid is neutral. See § 115.64(b)(3). Thus, $1127 per pupil ($700 + $200 + $^{2}/_{3}$ of $100 + $160) is wealth neutral and $33 per pupil is not neutral.

LEA No. 2

Of the $950 per pupil derived from local required effort $900 is neutral since that was the least amount realized by any LEA for the required local tax rate. The $50 per pupil above the guarantee and the $100 per pupil minimum State equalization aid are not neutral since they exceed the least amount realized by another agency. See § 115.64(b)(2)(i). Two thirds of the $300 per pupil realized on the additional local tax $200 is not neutral since the last wealthy, LEA #3, could only realize one-third of the revenue that LEA #2 could at any rate. See § 115.64(b)(1)(i). The $150 per pupil of State categorical aid is neutral. Thus, $1150 per pupil ($900 + $^{1}/_{3}$ of $300 + $150) is wealth neutral and $350 per pupil is not neutral.

LEA No. 3

The $500 per pupil derived from the required local tax rate and the $400 per pupil in State equalization aid are neutral since $900 is the least amount realized under the equalization program. See § 115.64(b)(2)(i). All of the $70 per pupil realized from the additional local tax is neutral since LEA #3 is the least wealthy in the State. See § 115.64(b)(1)(i). The $155 per pupil of State categorical aid is neutral. Thus, all of the $1125 per pupil is neutral.

The calculation of the percentage of wealth neutral funds for State A is as follows:

	Total revenues			
	Neutral		Not neutral	
LEA No. 1	$1,127 ×2,000	per pupil pupils	$[illegible] ×2,000	per pupil pupils
	[illegible]		[illegible],000	
LEA No. 2	$1,100 ×1,000	per pupil pupils	$[illegible] ×1,000	per pupil pupils
	$1,[illegible]		$400,000	
LEA No. 3	$1,125 ×1,000	per pupil pupils	None.	
	$[illegible]			
Total neutral revenues	$4,529,000	=91.6 pct neutral		
Total State, intermediate, and local revenues	$4,946,000			

Thus, State A qualifies under § 115.64(a).

Example 2. State B in the prior year had an equalization program which required a 5 mill effort and allowed 5 mills additional leeway. For the required 5 mill effort each LEA was granted $600 per pupil. LEA #1, on a wealth base of $60,000 per pupil, levied the full 10 mills producing $300 per pupil of State basic aid, received $300 per pupil of State aid, and with the $300 per pupil leeway yield, had revenues of $900 per pupil. LEA #2, on a wealth base of $160,000 per pupil, also levied the full 10 mills producing $800 per pupil which exceed the guarantee and thus received no State basic aid. The leeway yielded an additional $800 per pupil for a total of $1,600 per pupil.

The State has instituted a new program raising the guarantee to $900 per pupil with a 10% budget increase limitation. LEA #1, (with 2,000 pupils), now realizes $300 per pupil from its required effort, receives $600 of State equalization aid, and can levy only 1.5 mills for a yield of $90 per child because of its budget restraint of $990 per child ($900 per child plus 10%). LEA #2 (with 1000 pupils), realizes $800 per pupil from its required effort, receives $100 per pupil in State equalization aid, levies 5 mills leeway for another $800 per pupil for a total of $1,700 per pupil which is still within its budget increase limitation of $1,760 per pupil.

Assuming that no other LEA is restrained below the $900 per pupil guarantee and that LEA #1 is the most restrained at $90 per pupil leeway then all of the revenues of LEA #2 above the level are not neutral since it is the most restricted LEA. (See § 115.64 (b)(1)(ii)).

The percentage of neutrality is calculated in the same way as in Example 1. Assuming there are no other LEAs, the percentage of wealth neutral revenues is 80.7, and State B does not qualify under § 115.64(a).

Example 3. State C has an equalization program under which each LEA is guaranteed $900 per weighted pupil or 110 percent of the prior year's per weighted pupil revenue under the program, whichever is less, minus the LEA contribution derived from a required tax which is uniform for all LEA's guaranteed $900 per pupil and proportionately less for those LEA's guaranteed lesser amounts per pupil. No additional local leeway taxes are allowed. LEA #1 received $850 per pupil under the program in the prior year while LEA #2 received $800 per pupil under the program in the prior year. LEA #1 is limited to the $900 guarantee since 110 percent of its prior year's expenditure exceeds the $900 guarantee. LEA #2 qualifies for an $880 guarantee since 110 percent of $800 equals $880. LEA #2's required tax effort is also proportionately less.

Assuming that neither LEA realizes revenues in excess of the guarantees for LEA #1 (with 10,000 pupils), $880 of the $900 per pupil revenue is wealth neutral and for LEA #2 (with 2,000 pupils), all $880 in per pupil revenue is wealth neutral. (See § 115.64(b)(2)(iii))

The percentage of neutrality of the revenues would be calculated as in Example 1. If there are no other LEA's, the percentage of wealth neutral revenues is 98.2 and the State qualifies under § 115.64(a).

Example 4. State D has an equalization program which permits different local tax efforts from 1 mill to 10 mills and which guarantees $100 per pupil for each mill levied. LEA #1 taxes at 5 mills and realizes $200 per pupil. Since the guarantee level for 5 mills is $500 per pupil, State D gives LEA #1 $300 in equalization aid. LEA #2 also taxes at 5 mills, but realizes $800 per pupil. Since the guarantee for 5 mills is only $500 per pupil, LEA #2 receives no equalization aid. LEA #3 taxes at 8 mills and realizes $400 per pupil. Since the guarantee at 8 mills is $800 per pupil, LEA #3 receives $400 in equalization aid. LEA #4 taxes at 8 mills, but realizes $1100 per pupil. Since the guarantee for 8 mills is only $800 per pupil, LEA #4 receives no equalization aid. All of the funds LEA #1 realized under the equalization program are neutral since there is no excess over the guaranteed amount for 5 mills. $300 per pupil of the funds realized by LEA #2 are not neutral, because that is the amount in excess of the amount guaranteed for a 5 mill tax effort under the equalization program, and is attributable to the greater wealth of LEA #2.

All of the funds realized by LEA #3 under the equalization program are neutral since there is no excess over the guaranteed amount for an 8 mill tax effort. $300 per pupil realized by LEA #4 is not neutral, because that is the amount in excess of the guaranteed amount for an 8 mill tax effort under the equalization program and is attributable to the greater wealth of LEA #4. See § 115.64(b)(2)(ii).

Example 5. State E has a foundation-type equalization program under which each LEA receives funds for a teacher salary, based on a salary schedule, for each 25 pupils in average daily attendance with additional teacher units allocated for small or sparsely populated districts, and special education programs such as handicapped and vocational classes. Each district also receives under the program a set amount of dollars per teacher unit for expenses other than salaries. Each LEA must make a tax effort of 10 mills to qualify for the foundation equalization aid. The yield from the 10 mills tax is deducted from the amount of the equalization guarantee. There are no State restrictions on budget, expenditure or tax effort increases over prior years. No LEAA in the State realizes more than the equalization amount for the 10 mills effort. All of the funds realized by all LEAs under the foundation equalization program are neutral. Any excess in the amount of revenues realized by any agency over that realized by any other are attributable to differences in the designated needs. (See § 115.61(b)(2) and § 115.64(b)(2)(i)).

[FR Doc.77-8031 Filed 3-21-77;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 115—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

Final Regulations for Treatment of Payments Under State Equalization Programs

A notice of proposed rulemaking was published in the FEDERAL REGISTER on May 1, 1975 (40 FR 19114) setting forth proposed regulations for the treatment of Pub. L. 81-874 payments under State equalization programs as provided for in section 5(d)(2) of that Act.

Following comments on the proposed rules, interim regulations and a proposed amendment were published in the FEDERAL REGISTER on June 25, 1976 (41 FR 26320 and 26330). Additional comments were invited on the interim regulations.

Elsewhere in this issue of the FEDERAL REGISTER, an alternative standard to §§ 115.63 and 115.65 of these regulations has been published in a notice of proposed rulemaking related to section 5(d), Pub. L. 81-874. That notice proposes an amendment to § 115.62 of these final regulations and the addition of § 115.64, which is reserved under these regulations. A notice of proposed rulemaking was previously published for that amendment on June 25, 1976 (41 FR 26330); however, because clarifying language has been added to the amendment it is being published a second time as a proposed rule. These regulations, however, will become effective irrespective of when that proposed rule is finally adopted.

A. SUMMARY OF STATUTORY AMENDMENT AND FINAL REGULATIONS

1. *Effect of Pub. L. 93-380.* Section 305(a)(2) (effective for Fiscal Year 1976 and thereafter) of Pub. L. 93-380 amended section 5(d) of Pub. L. 81-874 to permit States to take into account payments under Title I of that Act in determining the relative financial resources available to local educational agencies and relative financial need of those agencies if the State has in effect a program of State aid for free public education designed to equalize expenditures among local educational agencies in the State. However, Pub. L. 81-874 payments may be so taken into account only in the proportion that local revenues covered by those programs are of total local revenues for education. As mandated by the statute, these regulations implement the amendments to Pub. L. 81-874 by establishing standards for determining whether a State has in effect such a program, by defining certain terms, by establishing procedures for determinations pursuant to section 5(d)(2), and by setting forth the procedure for a hearing regarding those determinations.

2. *Effect of Pub. L. 94-482.* Section 330(a) of Pub. L. 94-482 amended section 5(d)(2) of Pub. L. 81-874 to provide that no payments may be withheld from or repayment required of any State or local educational agency for any period prior to promulgation of final regulations, or, if the State is not in conformance with such regulations until July 1, 1977. Therefore, if any State desires to take into consideration payments under Pub. L. 81-874 after July 1, 1977 and desires an advance determination of whether its program qualifies under these regulations, it should initiate proceedings as provided in § 115.68 as early as practical so that a determination can be completed prior to that date.

3. *General rules.* Under § 115.61(b)(1), only a State whose program of State aid meets the standards set forth in §§ 115.62 and 115.63 or 115.65 may be excepted from the operation of section 5(d)(1) of the Act. However, these States may take into consideration only the proportion of Pub. L. 81-874 funds as permitted under § 115.66. In light of the many recent cases in State courts concerning the validity of State systems of school finance, § 115.61(b)(2) states that no State aid programs may qualify under these regulations if a State court has ruled that such a program violates law and the final ruling is not under appeal.

4. *Definitions.* Four terms have been defined: "State aid," "equalize expenditures," "current expenditures," and "revenue." The second of the foregoing is defined by reference to other sections of the regulations which set forth the qualifying standards for equalization programs.

5. *Qualifying standard.* Sections 115.62, 115.63 and 115.65 establish standards under which the Commissioner shall determine, for purposes of section 5(d)(2) of the Act, whether a State has a program of State aid designed to equalize expenditures among local educational agencies within that State. These standards have been developed in light of the legislative history of section 5(d) of the Act, which indicates that the Commissioner should promulgate regulations which afford only a limited and carefully constructed exception to the existing rule under section 5(d). (See, for example, the Congressional Record, daily edition, May 20, 1974, S 8607 and July 31, 1974, H 7401, 7412.) In particular, the House Committee on Education and Labor print, Pub. L. 81-874 and State Equalization Plans (March 1974), specifically mentioned in House Report 93-805, has been used as a reference in establishing the evaluative standards.

Any State aid program in effect which apportions payments on a relative shared-cost basis among local educational agencies in the State will be considered an equalization type of program to which these regulations may be applied. An expenditure disparity alternative test or standard is available for making determinations as to whether or not programs qualify.

If there is a disparity of no more than 25 percent in revenues per pupil (or other unit of pupil need used in the State program) available to the 95th and 5th percentile school districts (those with the 95th and 5th percentiles of the total number of pupils after being ranked in order of revenue per pupil), the program would be deemed to qualify under section 5(d)(2). A disparity standard has been chosen because it is a method of evaluating school finance programs in terms of equalization that has been used both by the courts and authorities in the field of school finance, and because it is believed that the phrase "equalize expenditures" focuses upon the relative availability of funds to local educational agencies for educating the children within their school systems. "Revenue" data, as an alternative to "expenditure" data, is permitted because revenues generally reflect the amounts of funds available for expenditure in a school district and because revenue data is more accessible for current fiscal year evaluation. In calculating the disparity, revenues or expenditures attributable to capital expenditures are likely to fluctuate considerably from year to year. The exclusion of the upper and bottom 5 percentile school districts is based upon the accepted principle of statistical evaluation that such percentiles usually represent unique or noncharacteristic situations.

An exception clause in § 115.65 provides that State programs which cannot be fairly evaluated under the above tests may still be considered for the exemption if certain other conditions are fulfilled. This clause then provides for a determination by the Commissioner in reference to specified evaluative criteria. These criteria, while judgmental in nature, have been selected as reasonable parameters of a truly equalizing State aid program. Consideration under this clause is further conditioned upon the requirement that educational expenditures be more equalized within a State as a result of any offsetting of Pub. L. 81-874 payments. It is expected that this exception will be rarely used, if at all.

6. *Proportionality determination.* Under this amendment to section 5(d), a State is limited as to how much of Pub. L. 81-874 payments going to a school district may be taken into consideration. Section 115.66 sets forth the statutory formula for determining what proportion local revenues under a State equalization program are of total local revenues for education. The amendments to section 5(d) prohibit a State from taking Pub. L. 81-874 payments into account in excess of this proportion. The phrase "local revenues covered under a State equalization program" and "total local revenues" are clarified in the regulation to distinguish among various revenues available for current expenditure that a school district might receive.

7. *Assurances.* A number of assurances are required of both State and local educational agencies with regard to the taking into consideration of Pub. L. 81-874 payments under a State aid program. Under § 115.67, a local educational agency will be required to assure that the State in which it is situated is acting in compliance with section 5(d) of the Act

as regards that agency. A State educational agency will be required to assure that it is acting in conformity with section 5(d) of the Act and these regulations, and that the State will restore to a school district any State aid not paid because of consideration of Pub. L. 81-874 payments not actually received. A failure on the part of either agency to provide these assurances will cause determination proceedings to be initiated under this subpart, but will not itself require suspension of payments under the Act.

8. *Determination procedures.* Provision is made in § 115.68 for proceedings to obtain determinations by the Commissioner under section 5(d)(2) at the initiation of an affected State or local educational agency or at the initiation of the Office of Education. Where the State educational agency, for example, desires an authoritative determination by the Commissioner whether and the extent to which section 5(d) permits it to take into consideration Pub. L. 81-874 payments in determining State aid, it may file with the Office of Education a submission seeking a determination. Also, where a local educational agency is adversely affected by a State taking into consideration Pub. L. 81-874 payments, it may seek a determination as to the status of such a State practice under section 5(d). The adverse effect contemplated in this case would be the loss of State aid monies which the local agency would have received but for the State's action. (In such a situation, the concerned State agency would, of course, be asked to respond.) Finally, the Office of Education itself, where it believes that a State may be acting in noncompliance with section 5(d), may initiate proceedings leading to an appropriate determination. Determinations will be applicable only for the fiscal years in issue.

At the same time, the regulation provides that a determination by the Office of Education that taking into consideration Pub. L. 81-874 payments under section 5(d)(2) is authorized would not have to be obtained before a State could commence such an action, if it were done in compliance with section 5(d)(2). For example, if a State, since the effective date of section 5(d)(2), has been taking into consideration these payments under a State equalization program which qualifies under section 5(d)(2) and the regulations, and this State action is in the appropriate proportion for each local educational agency in the State, the fact that a determination by the Commissioner on the legality of this practice was not obtained in advance would not defeat the operation of section 5(d)(2) in providing an exception for the State. This rule, however, would not preclude the Commissioner from determining that a State had been in noncompliance with section 5(d)(2) during the time it acted without an advance determination.

In addition, provision is made for advance consultation with the Office of Education for States contemplating the adoption of equalization programs which would take into consideration Pub. L. 81-874 payments.

9. *Hearing procedures.* Section 115.69 establishes what parties may request a hearing, the time and place of hearings, the right to counsel for all parties, the conduct of the hearing, and the procedure for a final decision by the Commissioner. It further provides that there shall be no reduction or termination of Pub. L. 81-874 payments prior to a final decision and that, if a State which is found to be in noncompliance will cease and desist in its improper action and will make appropriate restitution to any local educational agency adversely affected by such an action, there will be no reduction or termination of Pub. L. 81-874 payments.

10. *Appendix.* An appendix has been added to these regulations setting forth the different methods for making certain computational determinations established under these regulations. Each description is accompanied by one or more illustrative examples.

B. SUMMARY OF COMMENTS, RESPONSES, AND CHANGES IN THE REGULATIONS

The comments received concerning the interim regulations were essentially the same as those received concerning the proposed rules. In the previous section, substantial detail of the rationale for the appropriateness of and the reasonableness of the specific levels is provided. Comments are discussed below on an individual basis. After the summary of each comment, a response is set forth stating changes which have been made to the regulations in light of the comment, or the reasons why no change is deemed necessary.

Comment: Two commenters opposed excluding the upper and lower 5% in applying the expenditure disparity test.

Response: No change has been made in the regulations. It is common practice when analyzing the effects of a general rule over an extremely wide range of data to exclude highly atypical data from consideration. It is deemed that the exclusion of the upper and lower 5 percent is appropriate in this case. Extremely small and remote districts, nonoperating districts, special purpose cooperative schools, privately supplemented public schools, and voucher programs are examples of conditions which can produce atypical data.

Comment: One commenter suggested that a standard based on a high proportion of State support should be added to the regulations.

Response: No change has been made in the regulations. Section 5(d)(2) of the Act specified that a qualifying program must be "* * * designed to equalize expenditures * * *." The degree of equity of expenditures and the degree of wealth neutrality is not necessarily related to the proportion of State support. For example, if a State modified district boundaries so that taxable wealth per pupil was equal in all districts and all districts levied the same tax rate, equal expenditures and wealth neutrality could occur with no State support. Thus, a regulation concerning the proportion of State support would not necessarily affect the degree of expenditure equity. This is not to dispute the contention that increases in State support usually do decrease the expenditure disparity.

Comment: One commenter felt that the omission of concern for the ratio of assessed value to actual value in the regulations is a serious defect.

Response: No change has been made in the regulations. The degree of equity of expenditures is not necessarily related to the ratio of assessed value to actual value. For example, tax rates can be adjusted to negate differences in the ratios of assessed value to actual value. In fact, some States employ such a method for adjusting unequal assessments among districts when calculating State aid. While equity in assessment practices is encouraged, a regulation on this issue would not be consistent with the provisions of section 5(d)(2) of the Act.

Comment: One commenter objected to the weighting of attendance figures by cost of living multipliers, average teacher's salary factors, social and economic characteristics, and other "non-educationally related" variations.

Response: No change has been made in the regulations. The Commissioner is required by the Act to define "State Aid" and "equalize expenditures" but not in such a way as to have an adverse effect on programs which take into consideration the additional cost of programs for particular groups or categories of children. In making these definitions, the Act does not prohibit the Commissioner from similar treatment of other factors for which States may provide additional resources. The additional factors in the interim regulations describe other cost differentials known to be in use in State aid programs in some States. It is expected that calculations under these regulations will use those cost differentials or pupil weightings established under State law in each State.

Comment: One commenter expressed concern that § 115.65(c)(3) requires identification and categorical support within impact aid programs and that § 115.65(c)(5) requires evaluation of these programs and that Federal inspection and reporting will thereby be promulgated upon local districts.

Response: No change is needed in the regulations. Section 115.60(b) states that the sole purpose of subpart G of these regulations is to determine whether or not a State has a program designed to equalize expenditures and, if so, to determine what portion of payments to a district under Pub. L. 81-874 may be taken into consideration in determining State aid to that district. The criteria in § 115.65(c) is for the above purpose only and does not apply to the use of Pub. L. 81-874 funds within a local district.

Comment: One commenter expressed the belief that the regulations were meaningless since few, if any, States could pass either the disparity or the proposed neutrality test.

Response: The expenditure disparity standard was developed in light of the history of the legislation which is cited in the preamble to the interim regulations. The qualifying test is intended to be limited and carefully constructed exception to the general rule contained in section 5(d)(1) of the Act against consideration of Pub. L. 81-874 payments in determining State aid. However, it is recognized that the majority of States may not qualify under the regulations.

Comment: Five commenters expressed the view that the 25 percent expenditure disparity standard was not restrictive enough while three indicated it was still too stringent.

Response: No change has been made in the regulation. A preliminary perusal of data from several States following the publication of proposed rules in May, 1975 indicated that only 2 or possibly 3 States might qualify under the 20 percent disparity standard proposed. A too strict standard would nullify the intent of the amendment. A standard set at 25 percent is believed to be a fair one which will allow those States with the better equity features in their plans to qualify while a large majority of States cannot qualify without significant changes to their programs.

Comment: One commenter objected to revenues for capital outlay being excluded from the definitions of total local revenues.

Response: No change has been made in the regulation. The exclusion is based on the fact that Pub. L. 81-874 is a current expenditure program and, as a consequence, it would be inconsistent to incorporate into a test of program qualification and into procedures for program operation measures of classes of expenditures which are unrelated to the purposes of the program in question. Additionally, expenditures for capital outlay and debt service are likely to fluctuate considerably from year to year and might act unfairly in the application of the qualifying standard.

Comment: One commenter expressed concern that once a State program qualified under these regulations that it could take into account Pub. L. 81-874 payments to all local districts and suggested that districts with low resources be exempted.

Response: No change has been made in the regulations. If a State program qualifies, the Act clearly gives that State the right to take into account payments under the Act in determining State aid limited only by the proportion calculation as set forth in § 115.66. A State can exempt low spending districts if it decides to do so. To require such an exemption, however, is deemed to be beyond the rulemaking authority of the Commissioner. It is agreed that greater equity might be obtained by exempting districts with high tax efforts and low expenditures. However, this is a matter for State decision.

Comment: One commenter suggested a one year additional delay in the regulations and one suggested they be withdrawn until they can be reviewed through the active participation of representatives from school districts throughout the country.

Response: The Commissioner does not believe that additional delay in promulgating regulations will serve the purposes of the amendment. Representatives of local school districts have had ample opportunity to review the interim regulations. Prior to publication of proposed rules, four regional meetings were held where the legislation was discussed. A presentation was made to a national organization of districts receiving payments under Pub. L. 81-874 and at other conferences including a special conference of eight States in February, 1975. Proposed rules were published May 1, 1975 and the public was invited to comment. Interim regulations were published June 25, 1976 and again comments were invited. Other comments have been made through letters and telephone communication. It is believed that adequate opportunity has been provided for interested parties to review and comment on these regulations.

Comment: One commenter said that, despite numerous requests, local school districts were not consulted during the development of the interim final regulations.

Response: See response to preceding comment.

Comment: One commenter expressed concern that the interim regulations reflect significant changes from earlier proposed rules and that further opportunity for comment should be afforded.

Response: The second paragraph of the preamble to the interim regulations stated that the purpose of the publication of interim regulations was to allow additional comment. Thus, the suggestion has already been granted.

C. OTHER CHANGES

1. A number of typographical and technical corrections have been made.

2. The regulations have been reorganized and renumbered to facilitate understanding and use of them.

3. Clarifying language has been added to § 115.63(b) regarding the procedure for calculating an expenditure disparity in those States operating local educational agencies of different grade levels of instruction.

4. Section 115.6(d) has been modified to include in the expenditures disparity calculation all Federal funds received by a local educational agency for which the agency is not accountable to the Federal Government for their use. Payment under such funds are considered to be reimbursements or payments in lieu of taxes and as such are appropriately counted as local funds.

5. Section 115.66(b)(2) has been modified to permit a State to consider up to 100 percent of a local educational agency's Pub. L. 81-874 receipts in the computation of the proportion in the case where there are no local revenues for current expenditures and the State provides all of those revenues on behalf of the agency. The modification was necessary in order to carry out the intention of the proportion provision which is to reflect the relative burden which the State and an agency share of any Federal activity in that agency. If all of an agency's non-Federal funds are provided by the State, then the burden of any Federal activity within that district is borne by the State as a whole.

6. Section 115.69(b)(2) and (3) has been modified to specify a 30 day period for the provision of satisfactory assurances that State aid which was denied agencies because of Pub. L. 81-874 receipts will be restored. The modified language was added in order to facilitate the timely and effective administration of the provision.

7. Additional examples have been incorporated into the Appendix in order to illustrate the calculation of a weighted average under the provisions of § 115.63(b) and to further illustrate the calculation of the proportions under the provisions of § 115.66.

D. ADOPTION OF REGULATIONS

Effective date. Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. These regulations are effective July 1, 1977, subject to the provisions in section 431(d) concerning Congressional action.

The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11281 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.478—School Assistance in Federally Affected Areas—Maintenance and Operations.)

Dated: January 17, 1977.

EDWARD AGUIRRE,
Commissioner of Education.

Approved: March 11, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health,
Education, and Welfare.

Subpart G—Determinations Under Section 5(d)(1) and (2)

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Subpart G—Determinations Under Section 5(d)

§ 115.60 Scope and purpose.

(a) *Scope.* This subpart applies to determinations made by the Commissioner pursuant to section 5(d) of the Act as amended by Pub. L. 93-380, Pub. L. 94-482.

(b) *Purpose.* The sole purpose of the regulations in this subpart is to implement the provisions of section 5(d)(2) of the Act. The definitions and standards contained herein have been developed with respect to the particular intent of the amendment made to section 5(d) of the Act by sections 304(c) and 305(a)(2) of Pub. L. 93-380 and section 330(a) of Pub. L. 94-482 and should not be construed as establishing definitions and standards for any other purpose.

(20 U.S.C. 240(d); secs. 304(c), 305(a)(2) Pub. L. 93-380, 88 Stat. 484; 120 Cong. Rec. S8506, 8507 (daily ed. May 20, 1974).)

§ 115.61 Treatment of State Aid Programs in General.

(a) *Statutory provisions.* (1) Section 5(d)(1) of the Act provides that, except in section 5(d)(2), no payment may be made to any local educational agency within a State which takes into consideration payments under section 5 of the Act in determining the eligibility of any agency for State aid, or the amount of that aid, with respect to free public education during the fiscal year of those payments or the preceding fiscal year, or which makes aid available in such a manner as to result in less State aid to any agency which is eligible for payments under the Act than that agency would receive if it were not so eligible.

(2) Section 5(d)(2) of the Act provides that, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under the Act may be taken into consideration by that State in determining (i) the relative financial resources available to local educational agencies in that State and (ii) the relative financial need of those agencies for the provision of free public education for children served by those agencies, subject to the provisions in that section.

(3) Section 5(d)(2)(A)(ii) of the Act provides that, if a State takes payments under the Act into consideration in accordance with section 5(d)(2), the State may do so only to the extent of the proportion that the local revenues of a local educational agency covered under the equalization part of a State aid program are of that agency's total local revenues for education.

(4) Section 5(d)(2)(C) of the Act, as added by Pub. L. 94-482 provides that no payment under the Act may be withheld from and no repayment may be required of any State or local educational agency because of any noncompliance with section 5(d)(2)(A) of the Act or this subpart prior to July 1, 1977 if that State had a program of State aid whose procedures were designed to equalize expenditures for free public education among those agencies in effect on October 12, 1976.

(20 U.S.C. 240(d); H.R. Rep. No. 94-1701, 238 (1976).)

(b) *General rules.* (1) Except as provided in paragraph (b)(2) of this section, a State may take into consideration payments under the Act in allocating State aid if that State has a program of State aid which qualifies under § 115.62. However, those payments may be taken into consideration for each affected local educational agency only in the proportion described in § 115.66.

(2) No program of State aid may qualify under this subpart if a court of that State has determined by final order, not under appeal, that the program fails to equalize expenditures for free public education among local educational agencies within the State or otherwise violates law.

(3) The Commissioner will not interpret any of the provisions of §§ 115.62, 115.63, and 115.65 so as to consider any part of a State aid program which allocates funds for the additional cost of providing free public education for children with special educational needs as disequalizing expenditures for free public education. For the purposes of this subpart, children with special educational needs are handicapped children, non-English speaking children, economically disadvantaged children, gifted and talented children and the like.

(20 U.S.C. 240(d)(2); 20 U.S.C. 242(b).)

(c) *Data for determinations.* Determinations under this subpart requiring the submission of financial or school population data may be made either (i) On the basis of data for the fiscal year preceding the fiscal year of determination if the same program was then in effect; or (ii) On the basis of estimates of data for the fiscal year of determination. Data submitted must be the most currently available and complete data, whether based on revenues or current expenditures. Estimates submitted by a State educational agency or other appropriate State agency must set forth the assumptions upon which such estimates are founded, must be accompanied by an assurance as to their accuracy, and must be adjusted by actual data for the fiscal year of determination as soon as available for the purpose of verification.

(20 U.S.C. 240(d); 242(b).)

(d) *Definitions.* For the purposes of this subpart, the following terms shall have the meanings indicated below:

(1) "State aid" means any contribution, no repayment for which is expected, which is made by a State to or on behalf of local educational agencies within the State for current expenditures in the provision of free public education;

(2) "Equalize expenditures" means to meet the standards set forth in § 115.62;

(3) "Current expenditures" means the total charges incurred for the benefit of the school year in an elementary or secondary school program, exclusive of capital outlay and debt service for capital outlay.

(4) "Revenue" means an addition to assets which does not increase any liability, does not represent the recovery of an expenditure, does not represent the cancellation of certain liabilities without a corresponding increase in other liabilities or a decrease in assets, and does not represent a contribution of fund capital in food service or pupil activity funds. Furthermore, for the purposes of this subpart, the term "revenue" includes only revenue for current expenditures.

(20 U.S.C. 240(d)(3).)

§ 115.62 General qualifying standard for State Aid programs.

(a) *General standard.* For the purposes of section 5(d)(2) of the Act, the Commissioner will consider a program of State aid to be designed to equalize expenditures for free public education among local educational agencies in that State if the program—

(a) Is authorized by State law in effect for the fiscal year for which the determination under this subpart is made;

(b) Provides for the apportionment of State aid among local educational agencies in the State in order to carry out the objectives of the program;

(c) Provides that in determining the amount to be apportioned to each local educational agency in the State, the State will take into consideration the relative financial resources available to local educational agencies in that State for the program; and

(d) Meets the standard of either § 115.63, § 115.64 or § 115.65 of this subpart.

(20 U.S.C. 240(d)(2).)

§ 115.63 Disparity standard.

(a) *25 percent disparity limitation.* The Commissioner will consider a program of State aid to have fulfilled the requirement of § 115.62(a)(4) of this subpart if the disparity in the amount of current expenditures or revenue per pupil for free public education among local educational agencies in the State is no more than 25 percent for the fiscal year for which a determination is made under this subpart. The method for calculating the percentage of that disparity in a State is set out in the Appendix to this subpart.

(b)(1) *Weighted average disparity for different grade level groups.* If a State requests it, the Commissioner will make separate disparity computations for different groups of local educational agencies in the State which have similar grade levels of instruction.

(2) In those cases, the weighted average disparity, based on the proportionate number of pupils in each group, may not be more than 25 percent for all the groups. The method for calculating the weighted average disparity percentage is set out in the Appendix to this subpart.

(c) *Per pupil figure computations.* In calculating the current expenditures or revenue disparities under this section, computations of per pupil figures are made on the following bases:

(1) Except as provided in paragraph (c)(2) of this section, the per pupil amount of current expenditures or revenue for a local educational agency is computed on the basis of the total number of pupils receiving free public education in the schools of the agency. The total number of pupils is determined in accordance with whatever standard

measurement of pupil count is used in the State.

(3) If a State aid program uses a "weighted pupil," a "classroom," "instructional unit," or other designated unit of need in determining allocations of State aid in order to take account of special cost differentials, the computation of per pupil revenue or current expenditures may be made on those bases. There are two allowable categories of special cost differentials: (i) Those associated with pupils having special educational needs, such as handicapped children, economically disadvantaged children, non-English speaking children, and gifted and talented children; and (ii) those associated with sparsity or density of population, cost of living, or special socioeconomic characteristics within the area served by an agency.

(d) *Revenues and current expenditures included in determinations.* The following revenues or current expenditures must be included for each local educational agency in the State in determining the percentage of disparity under paragraph (a) of this section:

(1) All revenues or current expenditures from State sources, except those applied or contributed outside any equalized part of the State aid program which are designated for special cost differentials of the type specified in paragraph (c)(2) of this section.

(2) All revenues for current expenditures from local or intermediate sources, except those taken into consideration under any equalized part of the State aid program which are designated for special cost differentials of the type specified in paragraph (c)(2) of this section.

(3) Pub. L. 81-874 funds received by the agency under sections 2, 3 and 4 of the Act, except to the extent that (i) they are not taken into consideration under the State aid program, and (ii) they exceed the proportion of those funds that the State would be allowed to take into consideration under § 115.66 of this subpart; and

(4) Any other Federal funds received by the agency for which the agency is not accountable to the Federal Government for their use such as Federal Forest Reserve funds (16 U.S.C. 500).

(20 U.S.C. 240(d)(2))

§ 115.64 [Reserved]

§ 115.65 Consideration for exceptional circumstances.

(a) *General requirements.* A State program which does not conform to the standards of either § 115.63 of this subpart may, nevertheless, qualify under this section if the Commissioner determines on the basis of information submitted by the State, that:

(1) a decision not to apply the exact disparity standard specified in § 115.63 to the program submitted by the State would be justifiable because of exceptional circumstances within the State related to disparities in current expenditures or revenue per pupil for education;

(2) current expenditures or revenues for education in that State will be more equalized if payments under the Act are taken into consideration under this subpart than if they are not, and

(3) The program meets the requirements of paragraph (c)(3) of this section.

(b) *Determination of "more equalized."* For purposes of paragraph (c)(1)(3) of this section, current expenditures or revenues for education within a State are considered "more equalized" if the distribution around the mean per pupil expenditure for all local educational agencies within the State is less when payments under the Act are taken into consideration in conformity with § 115.6 of this part than when they are not, as calculated according to accepted statistical methods appropriate to the circumstances.

(c) *Specific program requirements.* A program of State aid considered under this is not considered a program designed to equalize expenditures among local educational agencies in the State unless the Commissioner finds that, in addition to meeting the requirements of the preceding subparagraphs—

(1) The amount of the revenue available to local educational agencies in the State is not predominantly a function of the wealth of individual local educational agencies;

(2) The program is designed to ensure the provision of financially adequate educational programs and supportive services for every pupil in the State who is enrolled in public schools;

(3) In the determination of the relative financial need of local educational agencies, that program (i) makes provision for identifying those pupils with special educational needs (such as handicapped children, economically disadvantaged children, children with limited English-speaking ability), (ii) takes into consideration the additional costs of providing free public education for such children or categories of children; and (iii) takes into consideration the costs of providing education which might be associated with such factors as sparsity or density of population, cost of living, and socio-economic characteristics of the local educational agencies; except that nothing in this clause shall be construed to require any particular system of weighting of pupils.

(4) Such program involves a substantial percentage of school revenues;

(5) Such program is designed to provide systems and procedures for evaluating the degree to which the program is achieving its stated objectives.

(20 U.S.C. 240(d)(2); S. Rep. No. 763, 93d Cong., 2d Sess. 56 (1974); H.R. Rep. 805, 93d Cong., 2d Sess. 42-44 (1974); 120 Cong. Rec. S 8604-607 (daily ed., May 20, 1974); *Id.* H 7401 (daily ed. July 31, 1974); Congressional Research Service, *Public Law 874 and State Equalization Plans* 30-40 (H.R. Comm. on Education and Labor Print (March 1974)))

§ 115.66 Proportion of funds that may be taken into consideration.

(a) *Provision of law.* Section 5(d)(2)(A)(ii) of the Act provides that, in allocating State aid a State may consider as local resources funds received under the Act only in proportion to the share that local revenues covered under a State equalization program are of total local revenues. That determinations of proportionality must be made on a case-by-case, school district by school district basis, for each local educational agency affected and not on the basis of a general rule to be applied throughout a State.

(20 U.S.C. 240(d)(2)(A)(ii); S. Rep. No. 1026, 93d Cong., 2d Sess. 163 (1974).)

(b) *Computation of proportion.* (1) In computing the share that local revenues covered under a State equalization program are of total local revenues for a local educational agency with respect to a program qualifying under § 115.62, the proportion is obtained by dividing (i) the amount of local revenues covered under the equalization program by (ii) the total local revenues attributable to current expenditures for free public education within such agency.

(2) In cases where there are no local revenues for current expenditures and the State provides all of those revenues on behalf of the local educational agency, the State may consider up to 100 per cent of the funds received under the Act by that agency in allocating State aid.

(20 U.S.C. 240(d)(2)(A)(ii); 120 Cong. Rec. H 7403 (daily ed., July 31, 1974))

(c) *Local revenues.* For the purposes of this section—

(1) "Local revenues covered under a State equalization program" means those revenues for current expenditures produced within the boundaries of a local educational agency contributed to or taken into consideration in a program of State aid subject to a determination under this subpart, but excluding all revenues from State and Federal sources.

(2) "Total local revenues" means all revenues for current expenditures of a local educational agency, including revenues for education programs for children needing special services, vocational education, transportation, and the like during the period in question but excluding all revenues from State and Federal sources.

(3) Revenues received by a local educational agency which are produced within the boundaries of an intermediate school district or other local governmental instrumentality will be counted as local revenues.

(d) *Application of proportion to payments under the Act.* (1) The proportion established under this section (or a lesser proportion) for any local educational agency receiving payments under the Act may be applied by a State to actual receipts of those payments or to the prorated entitlements provided for under section 5 of the Act and § 115.24 of this subpart.

(2) That proportion may not be applied to any portion of a payment under the Act made to a local educational agency on the basis of low-rent public housing pupils or handicapped children after July 1, 1975.

(20 U.S.C. 240(d)(5); 120 Cong. Rec. H7423 (daily ed., July 31, 1974))

§ 115.67 Assurances in applications.

(a) *By applicants.* Each applicant for financial assistance under the Act must set forth an assurance in its application either (1) that the State in which it is situated is not taking payments to such applicant under the Act into consideration with regard to a program of State aid, or (2) that, if the State is taking such payments into consideration with regard to its program of State aid, the State is doing so, for that applicant, in conformity with § 115.66 of this subpart.

(b) *By State educational agencies.* Each State educational agency which certifies an application for financial assistance under the Act, as provided for in § 115.10 of this part, must submit to the Commissioner an assurance with such application either (1) that the State is not taking payments under the Act into consideration with regard to a program of State aid, or (2) that the State is taking such payments into consideration with regard to a program of State aid in conformity with section 5(d)(2) of the Act and this subpart.

(c) *State guarantee of certain payments.* A further assurance is required of any State which does not take into consideration payments under the Act in allocating State aid to local educational agencies. The State must assure, for each application it certifies in accordance with § 115.10 of this part, that it will reimburse any local educational agency the amount of any of those payments taken into consideration but not in fact received by the agency by the time of final payment under the Act for the year of determination. The State must also include this assurance as part of any submission for determination under § 115.68 of this subpart.

(d) *Failure to provide assurances.* A failure on the part of any local or State educational agency to set forth the assurances required by this section constitutes sufficient cause for an initiation of proceedings by the Commissioner, as provided for in § 115.68 of this subpart. However, the Commissioner will not, because of a failure to provide these assurances, suspend or terminate payments under the Act with respect to such agencies prior to the rendering of a final decision under this subpart.

(20 U.S.C. 240(d); S. Rep. No. 1026, 93d Cong., 2d Sess. 163 (1974))

§ 115.68 Submissions and consultations.

(a) *Initiation.* (1) A proceeding under this subpart leading to a determination by the Commissioner as to whether, or the extent to which a State may take into consideration payments under the Act in determining relative financial resources or need under a program of State aid may be initiated (i) by the State educational agency or other appropriate agency of the State; (ii) by a local educational agency which is or would be adversely affected by that State action; or (iii) by the Commissioner, if the Commissioner has reason to believe that the State's action is in violation of section 5(d) of the Act and that payments to local educational agencies in the State should therefore be terminated under section 5(d) of the Act.

(2) Whenever a proceeding under this subpart is initiated, the party initiating the proceeding shall give adequate notice to all State and local agencies which might be adversely affected by a determination. Those agencies will be accorded a right of intervention in the determination proceedings.

(3) Nothing in this subpart shall be construed to prohibit a State which has not obtained a prior determination from the Commissioner under this subpart from taking into consideration payments under the Act as provided for in section 5(d)(2) of the Act if that action is in conformity with §§ 115.62 and 115.66 of this subpart.

(20 U.S.C. 240(d)(2); H.R. Rep. No. 805, 93d Cong., 2d Sess., 42-43 (1974))

(b) *Submission.* (1) A submission by a State or local educational agency under this section must be made in the manner requested by the Commissioner and must contain such information and assurances as may be required by the Commissioner in order to reach a determination under section 5(d) of the Act and this subpart.

(2) A State educational agency in a submission must (i) demonstrate how its program of State aid comports with the criteria and standards in § 115.62 and (ii) indicate for each local educational agency receiving funds under the Act the proportion of those funds which will be taken into consideration in accordance with § 115.66.

(3) A local educational agency in a submission must demonstrate how it is affected by (i) the action of the State and (ii) the applicability of the standards set forth in this subpart to such action.

(4) Whenever a proceeding is initiated under this subpart, the Commissioner may request from a State the data deemed necessary to make a determination. A failure on the part of a State to comply with that request within a reasonable period of time shall result in a summary determination by the Commissioner that the program of State aid of that State does not comport with the regulations under this subpart.

(c) *Advance consultation.* States may upon request consult with the Office of Education regarding the possible application of the requirements of this subpart to relevant proposed legislation (such as legislation providing for taking into account funds under the Act in determining the amount of State aid) prior to the adoption of the legislation.

(20 U.S.C. 240(d))

§ 115.69 Notice and opportunity for hearing.

(a) *General requirements.* The Commissioner will afford reasonable notice of a determination under this subpart and opportunity for a hearing to any State educational agency or local educational agency adversely affected by the determination. The Commissioner will afford the notice and opportunity for a hearing and the hearing (if requested) shall take place prior to the implementation by the Commissioner of any determination. The notice shall set forth the reasons for the determination in sufficient detail to enable the agencies to respond.

(b) *Requests for hearing.* (1) A State or local educational agency which is adversely affected by a determination under section 5(d) of the Act and this subpart and which desires a hearing regarding that determination must submit a written request for a hearing within 30 days after the Commissioner gives appropriate notice. The time within which a request must be filed will not be extended unless the time for filing the request is extended in writing by the Commissioner or the Commissioner's designee at the time notice of the determination is given.

(2) A request for a hearing in accordance with this section must specify the issues of fact and law to be considered.

(3) If a local educational agency requests a hearing it must furnish a copy of the request to the appropriate State educational agency. If a State requests a hearing, it must furnish a copy of the request to all local educational agencies whose payments under the Act are or would be taken into consideration in the allocation of State aid.

(c) *Time and place of hearing.* The hearing shall be held at a time and place fixed by the Commissioner or the Commissioner's designee (with due regard to the mutual convenience of the parties).

(d) *Counsel.* In all proceedings under this section, all parties shall have the right to be represented by counsel.

(e) *Proceedings.* The Commissioner may refer the matter in controversy to a hearing officer or to a hearing panel designated by the Commissioner for such purpose. The hearing officer or hearing panel may consist of or include persons who are employees of the Department, employees of other Federal departments and agencies, and persons who are not Federal employees.

(f) *Procedural rules.* (1) If in the opinion of the hearing officer or panel no dispute exists as to a material fact the resolution of which would be materially assisted by oral testimony, the hearing officer or panel shall afford each party to the proceeding an opportunity for presenting its case at the option of the hearing officer or panel (i) in whole or in part in writing or (ii) in an informal conference which shall afford each party sufficient notice of the issues to be considered (where such notice has not previously been afforded).

(2) With respect to hearings involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the hearing officer or panel shall afford each party, in addition to the notice of issues required by paragraph (f)(1)(ii) of this section, the following:

(i) An opportunity for a record of the proceedings;

(ii) An opportunity to present witnesses on the party's behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(g) *Decisions.* When a hearing officer or panel is designated to consider the matter, the officer or panel shall make an initial decision based upon written findings, which shall be forwarded to the Commissioner. The Commissioner may, by appropriate notification to the parties, determine to review it or certify it as the final decision of the Commissioner without further proceedings. Written notice of the initial decision shall be sent to all parties. In any case in which the Commissioner modifies or reverses the initial decision, a notice of that action shall be accompanied by a written statement of the grounds for the reversal or modification. Notice of the final decision of the Commissioner shall be served upon all parties to the hearing, the hearing panel and any local educational agency which may be adversely affected thereby.

(h) *Effect on payments.* (1) When an appropriate request for a hearing under this section has been made the Commissioner will not suspend or terminate payments to a local educational agency under the Act on the basis of section 5(d)(1) of the Act until a final decision with respect to the matter in controversy has been made under this subpart.

(2) If a State has been finally determined, after notice and opportunity for hearing, to have been taking into consideration payments under the Act in violation of sections 5(d)(1) and (2) of the Act, the Commissioner shall terminate payments under the Act to all local educational agencies in that State unless the State provides satisfactory assurances within thirty (30) days after receiving notice of a final decision, that it will restore to all affected local agencies any State aid which was denied the agencies because of those payments.

(3) If a State has been finally determined, after notice and opportunity for a hearing, to have been taking into consideration payments under the Act in excess of the proportion computed under § 115.66 of this subpart, the Commissioner shall terminate payments under the Act to all local educational agencies in that State, unless the State provides satisfactory assurances, within thirty (30) days after receiving notice of a final decision, that it will reimburse all affected local educational agencies for the excess amount of payments taken into consideration in the allocation of State aid and that thereafter it will only take into consideration payments under the Act in the proportion permitted.

(4) During the thirty days provided under paragraphs (h)(2) and (3) for a State to provide satisfactory assurances, the Commissioner will suspend payments under the Act to all local educational agencies in the State. However, if during that time the State does provide the assurances required, the Commissioner will lift the suspension of payments.

(20 U.S.C. 240(d), 242(b); S. Rep. No. 1026, 93d Cong., 2d Sess. 163 (1974).)

APPENDIX

[Pub. L. 81-874, Section 5(d)]

ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES; METHODS OF CALCULATIONS FOR TREATMENT OF PAYMENT UNDER STATE EQUALIZATION PROGRAMS

The following paragraphs describe the methods for making certain calculations in conjunction with determinations made under various requirements of the regulations set forth in this subpart. These methods shall be the only methods used in making these calculations.

1. *Determinations of disparity standard compliance under § 115.63.*

The determination of disparity in current expenditures or revenue per pupil is made by:

(a) Ranking all local educational agencies having similar grade levels within the State on the basis of current expenditures or revenues per pupil with respect to the fiscal year for which data has been submitted in accordance with these regulations;

(b) Identifying those local agencies in each ranking which fall at the 95th and 5th percentiles of the total number of pupils in attendance in the schools of these agencies; and

(c) Subtracting the lower current expenditure or revenue per pupil figure from the higher for those agencies identified in paragraph (b) and dividing the difference by the lower figure.

Example. In State X, after ranking all local educational agencies organized on a grade 9-12 basis in order of the expenditures per pupil for the fiscal year in question, it is ascertained by counting the number of pupils in attendance in these agencies in ascending order of expenditure that the 5th percentile of student population is reached at LEA A with a per pupil expenditure of $820, and that the 95th percentile of student population is reached at LEA B with a per pupil expenditure of $1000. The percentage disparity between the 95th and 5th local educational agencies is 22 percent ($1000−$820=$180; $820). The program would be deemed to qualify.

(d) In cases under § 115.63(b), where separate computations are made for different groups of local educational agencies, the disparity percentage for each group is obtained in the manner described in paragraphs (a), (b) and (c) above. Then the weighted average disparity percentage as for the State as a whole is determined by:

(i) Multiplying the disparity percentage for each group by the total number of pupils receiving free public education in the schools in that group;

(ii) Summing the figures obtained in (i); and

(iii) Dividing the sum obtained in (ii) by the total number of pupils for all the groups.

Example. For State Y three groups of local educational agencies were considered. Group #1 (grades 1-6) had a disparity percentage of 18 percent and 80,000 pupils. Group #2 (grades 7-12) had a disparity percentage of 22 percent and 100,000 pupils. Group #3 (grades 1-12) had a disparity percentage of 35 percent and 20,000 pupils. The figure obtained under (i) is 14,400 for group #1, 22,000 for group #2, and 7000 for group #3. The sum of these figures under (ii) is 43,400. Dividing that number by the total number of pupils for all three groups (200,000) gives a weighted average percentage of 21.7 percent. State Y meets the requirement of § 115.63(b).

2. *Determination under § 115.63(b) as to maximum proportion of Pub. L. 81-874 payments that may be taken into consideration by a State under an equalization program.* The proportion that local revenues covered under a State equalization program are of total local revenues for a particular local educational agency is obtained by dividing (a) the amount of local revenues covered under the equalization program by (b) the total local revenues attributable to current expenditures for education within the agency.

Examples.

Example 1. State A has an equalization program under which each LEA is guaranteed $900 per pupil less the LEA contribution based on a uniform tax levy. LEA X contributes $700 per pupil and the State contributes the $200 difference. No other local revenues are applied to current expenditures for education by LEA X. The percentage of funds under the Act which may be taken into consideration by State A for LEA X is 100% (700/700). If LEA X receives $100 per pupil in Public Law 81-874 funds, $100 per pupil may be taken into consideration by State A in determining LEA X's relative financial resources and needs under the program. LEA X is regarded as contributing $800 and State A would now contribute the $100 difference.

Example 2. The initial facts are the same as in Example 1, except that LEA X, under a permissible additional levy outside the equalization program, raises an additional $100 per pupil. The percentage of Pub. L. 81-874 funds which may be taken into consideration is 87.5% (700/800). If LEA X receives $100 per pupil in Pub. L. 81-874 funds, $87.50 per pupil may be taken into consideration. LEA X is now regarded as contributing $787.50 per pupil under the program and State A would now contribute $112.50 per pupil as the difference.

Example 3. State B has an equalization program in which each participating LEA is guaranteed a certain per pupil revenue at various levels of tax rates. For an 8 mill rate the guarantee is $500, for 9 mills $550, for 10 mills $600. LEA Y levies a 10 mill rate and realizes $300 per pupil. Furthermore, it levies an additional 10 mills under a local leeway option, realizing another $300 per pupil. The percentage of Pub. L. 81-874 which may be taken into consideration is 50% (300/600). If LEA Y receives $100 per pupil in Pub. L. 81-874 funds, $50 per pupil may be taken into consideration. LEA Y may be regarded as contributing $350 per pupil under the program and State B would now contribute $250 as the difference.

Example 4. The initial facts are the same as in Example 3, except that LEA Z in State B, while taxing at the same 10 mill rate for both the equalization program and leeway allowance as LEA Y, realizes $550 per pupil for each tax. As with LEA Y, the percentage of Pub. L. 81-874 funds which may be taken into consideration for LEA Z is 50% (550/1100). If LEA Z receives $150 per pupil in Pub. L. 81-874 funds, then up to $75 per pupil normally could be taken into consideration. However, since LEA Z would have received only $50 per pupil in State aid, only $50 on the allowable $75 could be taken into consideration. Thus, LEA Z may be regarded as contributing $600 per pupil under the program and State B would not contribute any State aid.

Example 5. The initial facts are the same as in Example 4, except that LEA Z realizes $600 per pupil from each of the 10 mill taxes. Since LEA Z is regarded as contributing $600 to the equalization program and receives no State aid, no Pub. L. 81-874 funds are taken into consideration under the program.

[FR Doc.77-8032 Filed 3-21-77;8:45 am]

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TAB A

FACT SHEET

TITLE I - FINANCIAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY
(IMPACT AID)

Authorization: Pub. L. 81-874, as amended
20 U.S.C. 236-451-1, 242-245

Objectives: To provide financial assistance to local educational agencies burdened by the fact that -

(1) revenues available have been reduced as the result of the acquisition of real property by the United States: or

(2) LEAs provide education for children residing on Federal property; or

(3) LEAs provide education for children who parents are employed on Federal property, or

(4) There has been a sudden and substantial increase in school attendance due to Federal activities, or

(5) LEA has suffered damages as a result of "major" or "pinpoint" disaster, or

To provide the full cost of educating children residing on Federal property in areas where due to State law or for other reasons a local educational agency is unable to provide suitable free public education for school children.

TAB B

Impact Aid - P.L. 81-874

Section 2. School districts whose revenues from local sources have been reduced causing a substantial and continuing financial burden as the result of the acquisition of real property by the United States.

Section 3(a)(1) - Children residing on Federal property with a parent employed on Federal property in the same State as the school district. 1/

Section 3(a)(2) - Children residing on Federal property with a parent on active duty in the Uniformed Services. 1/ & 2/

Section 3(a)(2) Children residing on Indian lands. 2/

Section 3(b)(1) - Children residing on Federal property (but not Indian lands). 1/

Section 3(b)(2)(A)- Children residing with a parent employed on Federal property that is in the same county as the school district. 1/

Section 3(b)(2)(B) - Children residing with a parent employed on Federal property that is not in the same county but is in the same State as the school district. 1/

Section 3(b)(3) - Children having a parent on active duty in the Uniformed Services. 2/

Section 3(c) states eligibility requirements of at least 400, or 3 percent with a minimum of ten such children, in average daily attendance and at least 20 percent of children with refugee parents.

Section 3(d)(1) states the percentages (varying from 40 to 100) of the local contribution rate that may be paid for the various subcategories of (a) and (b) children.

Section 3(d)(2)(B) provides, in certain cases, an increased local contribution rate when 50% or more children reside on Federal property.

1/ Children in this category associated with low-rent housing must be separated in order to exclude funds for them in Tier 2 and to insure that payments are expended on Title I or Title I-type programs.

2/ Handicapped children in this category must be separated in order to provide them 150% of the usual payment rate and to insure that funds are expended on their special educational needs.

Section 3(d)(2)(c)(i) provides 150% of entitlement for handicapped children in Sections 3(a)(2) and 3(b)(3) who are being provided a special program.

Section 3(d)(3) states the method for determining the local contribution rate.

Section 3(e) is a hold-harmless clause providing, for 4 years, not less than 90% of the previous year's entitlement when there has been a decrease or cessation of Federal activities within the same State as the school district.

Section 4 provides assistance for a sudden and substantial increase in children resulting from Federal activities carried on directly or through a contractor.

Sections 5(a) and 5(b) require applications from local educational agencies, assurances that Indian children will participate on an equitable basis in school programs, and provide for payments of entitlements.

Section 5(c) states the method of making payments when appropriations are not sufficient to provide full entitlements. It establishes three payment tiers.

Section 5(d) prohibits payments to any school district in a State which considers P.L. 874 funds in determining eligibility for, and the amount of, State aid unless the State has in effect a program of State aid designed to equalize expenditures among the school districts of that State.

Section 5(e) prohibits payments for Section 3(a) and Section 3(b) low-rent housing children in the second payment tier. It requires that payments made for low-rent housing children be used for special programs and projects designed to meet the special educational needs of educationally disadvantaged children.

Section 5(f) requires that payments made for handicapped children be used for special educational programs designed to meet their needs.

Section 6 provides the full cost of educating children residing on Federal property in areas where due to State law or for other reasons a local educational agency is unable to provide suitable free public education for such children.

Section 7(a)(A) provides current operating assistance to local school districts whose programs have suffered as a result of a major disaster and for meeting the added costs of accepting private school children whose program was disrupted or impaired by a major disaster.

Section 7(a)(B) provides current operating assistance to local school districts whose school programs have been impaired as a result of a "pinpoint" disaster.

Section 7(b) provides disaster assistance to local school districts to make minor repairs, to replace textbooks and equipment and to lease temporary school facilities as a result of both major and "pinpoint" disasters.

Section 7(c) authorizes the use of any funds currently available to the Commissioner to make immediate disaster payments and for the reporting of such amounts to Congress.

Section 3 Hold-Harmless Provisions

(A) Guarantees minimum payment of 80% or in certain cases 90% of previous year's payment to all applicants.

(B) Guarantees minimum payment of 90% of previous year's entitlement to school districts losing 10% or more Federally connected children during FY 1974 and FY 1975 due to decrease or cessation of Federal activities affecting military installations announced after April 16, 1973.

(C) Guarantees minimum payment of 90% of previous year's payment for "B" children if the number of out-of-county and out-of-State "B" children is at least 10% of total "B" children.

(D) [illegible]ntees the difference between payment received from an appropriation shared with low-rent housing pupils and the payment that would have been received if the appropriation were not so shared.

TAB C P.L. 81-874 Impact-Aid

Comparison of Estimates in Payment Tiers 1 and 2 in 1976

Table I attached, is a copy of the Grand Total page of the "Perkins Report" furnished to the Congress on April 8, 1975 to indicate estimated requirements for Payment Tiers 1 and 2 in 1976. These estimates were based on 1975 application data and Impact Aid group data on public housing and handicapped for numbers of Federally-Connected children.

Table II attached, is based on a report of actual obligations for 1976 in Payment Tiers 1 and 2 that had been accomplished by July 29, 1976. (The report was used to estimate the hold harmless provisions.) The report data are based on the ADA of Federally-connected children as estimated by school districts in their 1976 applications.

A comparison of the tables for Payment Tiers 1 and 2 shows:

	Table I "Perkins"	Table II 1976 Application Data
Section 3 ADA	$ 2,582,606[1]	2,467,432
Section 3	551,840,293[2]	542,925,911
Total Payments Section 2 and 3	558,775,278	549,263,557
Amount of 1976 Appropriation Available for Sections 2 and 3	591,000,000	591,000,000
Difference between Appropriation and Estimates	32,224,722	41,736,443

[1] $2,678,326 minus $95,720 Out-of State "B" Pupils

[2] $558,775,278 minus $6,934,985 for Section 2

Exhibit 1

P.L. 81-874

1976 ESTIMATES BASED ON FY 1975 APPLICATION DATA
AND IMPACT AID GROUP DATA ON PUBLIC HOUSING AND HANDICAPPED
PAYMENTS

GRAND TOTALS

DATA 04/07/75 PAGE 2963

	# ADA	ENTITLEMENT	1ST TIER	2ND TIER	3RD TIER	1ST + 2ND TIER
SEC. 2		11558274	2,889,583	4,045,402	4,623,289	6,934,985
3(A)(1)	12,737.8	8545221	2136551	5773731	635539	7910282
3(A)(1)LRH	6396.1	3950998	987775	0	2963223	987775
3(A)(2)	254523.6	174,463,162	43,615,853	120,969,276	9878033	164585129
3(A)(2)LRH	3110.5	1972292	493089	0	1479203	493089
3(A)(2)HAND	2169.7	730180	182550	495878	51752	678,429
3(A)(2)(403)	81,917.0	60091491	15,022956	43570259	1498276	58593215
3(C)(2)(B)		230160	57540	172620	0	230160
TOTAL A	360854.7	249,753,944	62,438,774	170,809,144	16,506,026	233,247,919
3(B)(1)	50414.4	20329738	5082478	6505519	8741741	11587997
3(B)(1)LRH	584174.5	198632010	49658135	0	148973875	49658135
3(B)(2)(A)	662047.4	196051909	49013356	62736598	84301954	111749954
3(B)(2)(A)LRH	19169.9	6901846	1725480	0	5176366	1725480
3(B)(2)(B)	406405.6	107368279	26847513	30068721	50472045	56916234
3(B)(2)(B)LRH	76114.9	19635208	4958872	0	14876336	4958872
3(B)(3)	419807.0	134988043	33747428	47245864	53994751	80993292
3(B)(3)HAND	3617.8	1670656	417679	584732	668245	1002411
OUT-OF-STATE B	95720.3	0	0	0	0	0
TOTAL B	2,317,471.8	685797688	171450941	147141434	367205313	318592375
GRAND TOTALS	2,678,326.5	947,109,906	236,779,298	321,995,980	388,334,628	558,775,278

HOLD HARMLESS 1	HOLD HARMLESS 2	HOLD HARMLESS 3	HOLD HARMLESS 4	TIER1 + TIER 2 + LARGEST HH
36.638.671	30.947.436	21.259.814	57.823.039	650.473.260

Exhibit 2

NATIONAL TOTALS

ESTIMATE SAFA LEA TOTALS BY SECTION FOR FY 76

PAGE 4,405
DATE 07/29/76

SECTION	NR. APPL.	ADA	ENTITLEMENT	PRORATED ENT	FULL ENT DIFF
2	240	.00	10,562,745.22	6,337,646.19	4,225,099.03
3A1	787	18,106.37	13,826,020.91	12,980,133.22	845,887.69
3A1-LRH	201	7,332.49	6,852,837.07	1,713,208.54	5,139,628.53
3A2	514	243,540.36	169,127,270.80	158,985,832.85	10,141,437.95
3A1-LRH	162	2,392.34	1,826,962.25	456,739.96	1,370,222.29
3A1-SPED	290	9,341.54	9,513,770.86	8,982,761.84	531,009.02
3A1-IND	627	85,511.58	58,845,051.30	57,314,633.91	1,530,417.39
TOTAL 3A	1,790	366,225.40	259,991,913.19	240,433,310.32	19,558,602.87
3B1	240	11,519.42	3,317,687.53	1,891,080.68	1,426,606.85
3B1-LRH	1,151	646,505.79	229,950,154.55	57,487,534.33	172,462,620.22
3B2A	3,409	816,371.56	237,504,005.75	135,377,266.52	102,126,739.23
3B2A-LRH	200	5,283.00	1,437,588.64	359,396.44	1,078,192.20
3B2B	2,543	221,885.77	57,968,700.63	30,723,398.36	27,245,302.27
3B2B-LRH	30	1,290.32	296,514.07	74,128.41	222,385.66
3B3	3,043	388,244.09	123,257,190.17	73,954,301.74	49,302,888.43
3B3-SPED	468	10,306.85	4,836,622.02	2,901,971.26	1,934,650.76
TOTAL 3B	4,044	2,101,206.80	658,568,463.36	302,769,077.74	355,799,385.62
PUNTELL LIMIT/DEDUCT	96	.00	1,245,925.21	276,476.83	
4024 DEDUCTION	0			.00	
TOTAL 3A & 3B	4,168	2,467,432.20	917,314,451.34	542,925,911.23	374,388,540.11
3E	1		8,090.16	4,611.39	3,478.77
4A	0	.00	.00	.00	.00
4B	0	.00	.00	.00	.00
OTHER-1	32	1,454.00	187,721.76	187,721.76	.00
					.00
		************	************	****************	
		(GUARANTEE)	(INCREMENT)	(PRORATED INCR)	
MI-A	664	451,375,767.90	6,823,503.87	6,823,503.87	
MI-B	35	13,132,368.41	5,094,652.45	4,703,055.28	
MI-C	201	60,921,243.93	17,577,467.69	17,444,122.83	
MI-D	3,363	528,000,829.68	44,740,555.34	44,511,314.19	
		************	************	****************	
TOTALS	4,350	2,470,046.95	928,073,008.48	623,017,886.74	327,520,668.34
** TOTAL LRH **	1,221	662,803.94	240,364,056.58	60,091,007.68	180,273,048.90
** CUT STATE 2 **	497	103,735.11	.00		

Exhibit 3

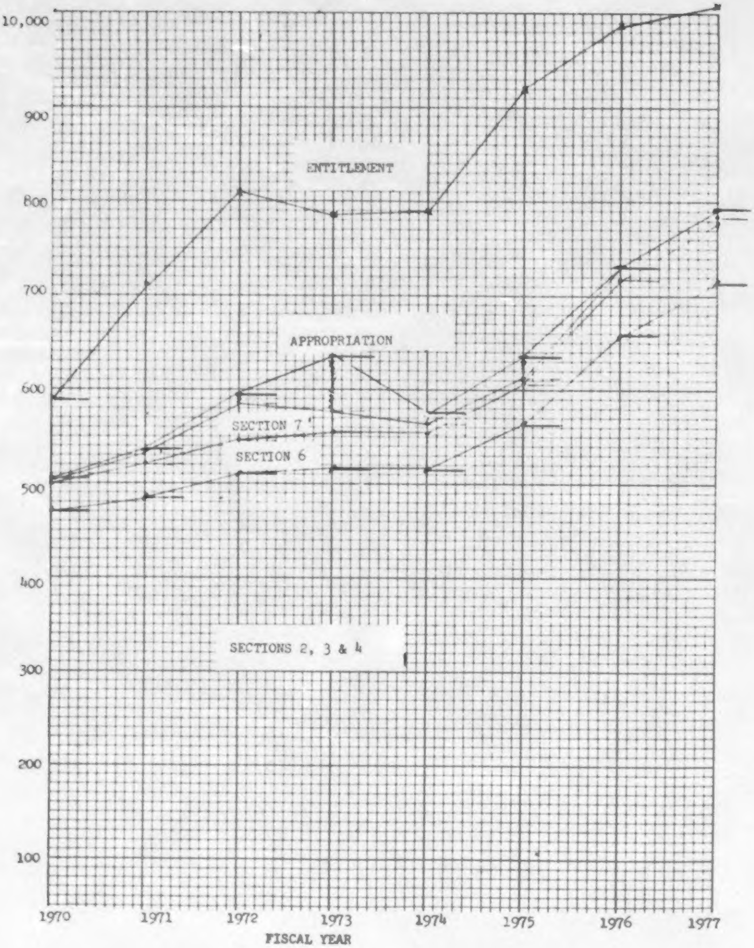
FY	Entitlement Total	Net	Appropriation	Federal School Sec. 6	Disaster Sec. 7	LEA Sec. 2, 3 & 4
1978						
1977	1,095,491,666		768,000,000	52,500,000	2,000,000	713,500,000
1976	989,319,738	730,000,000	754,000,000 1/	61,000,000 2/	12,000,000	657,000,000
1975	920,864,438	611,814,884	636,016,000	42,713,370	6,743,849	562,357,665
1974	792,755,903	564,096,412	574,416,000	37,669,929	10,663,603	515,762,880
1973	787,271,126	578,693,498	635,495,000	38,370,439	23,508,468	516,814,591
1972	812,867,760	586,423,709	592,580,000	35,969,828	40,436,212	510,017,669
1971	707,540,784	530,287,201	536,068,000	34,250,150	11,783,287	484,253,764
1970	589,423,088	504,846,795	505,400,000	29,076,039	5,170,682	470,600,074

1/ Includes $24,000,000 (75X0280) Hold Harmless Funds.

2/ Includes $15,000,000 Transitional Quarter (77 Start Up Funds).

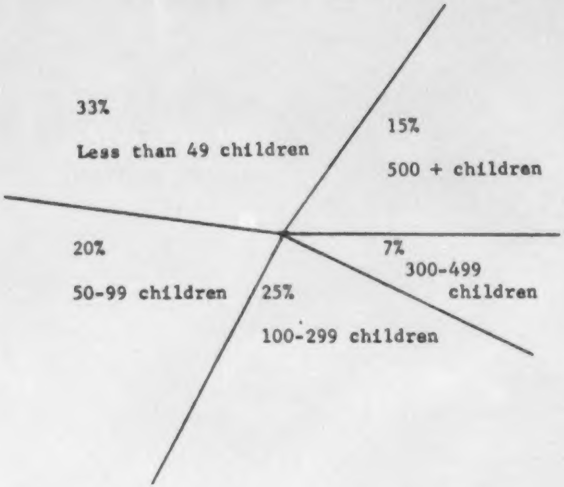
Exhibit 4

P.L. 81-874

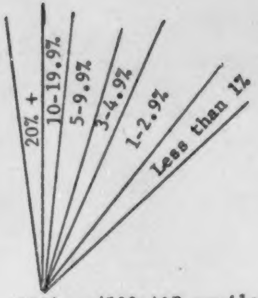


848

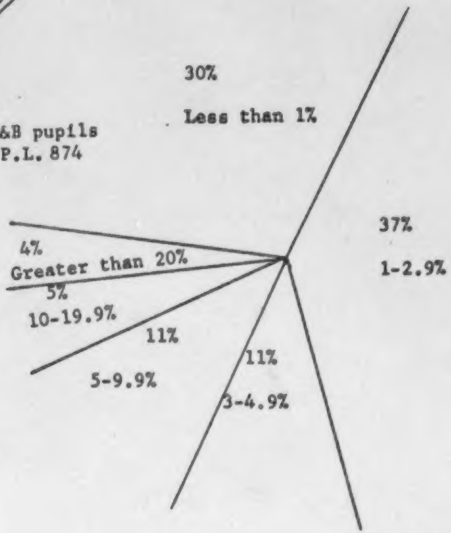
Exhibit 5



No of A&B pupils claimed
by applicant LEA's



LEA's w/500+A&B pupils
shown w/% of P.L. 874
pay't to TCE



P.L. 874 payments as % of total
current expenses

Exhibit 6 DEGREE OF FEDERAL IMPACT TABLE FY76 DATE 12/17/76

INCLUDES LEA

	NO. OF APPLS.	% OF TOTAL APPLICANTS	ACCUMULATED PERCENT	ACCUMULATED TOT. NO. OF APPLS.	PRO. NET ENT. SEC 3 IN 1,000	PERCENT OF TOT. NET SEC 3 ENT.	ACCUMULATED PERCENT	ACCUMULATED TOTAL NET SEC 3 ENT.
90-100.0%	23	.55	.55	23	10.474	1.80	1.80	10.474
80-89.9%	19	.45	1.00	42	40.743	7.00	8.80	51.217
70-79.9%	24	.57	1.57	66	8.799	1.51	10.31	60.016
60-69.9%	30	.71	2.28	96	16.061	2.76	13.07	76.077
50-59.9%	31	.74	3.02	127	18.301	3.15	16.22	94.378
40-49.9%	35	.83	3.85	162	11.714	2.01	18.23	106.092
30-39.9%	81	1.92	5.78	243	31.531	5.42	23.65	137.623
20-29.9%	155	3.68	9.46	398	55.354	9.51	33.16	192.977
10-19.9%	459	10.91	20.37	857	135.837	23.35	56.51	328.814
00-9.9%	3,350	79.63	100.00	4,207	252.948	43.48	99.99	581.762
TOTALS	4,207	100.00	100.00	4,207	581.762	100.00	100.00	581.762

DEGREE OF FEDERAL IMPACT TABLE FY76

FACILITIES LHP

DATE 12/17/76

	NO. OF APPLS.	% OF TOTAL APPLICANTS	ACCUMULATED PERCENT	ACCUMULATED TOT. NO. OF APPLS.	PRO. NET ENT. SEC 3 IN 1,000	PERCENT OF TOT. NET SEC 3 ENT.	ACCUMULATED PERCENT	ACCUMULATED TOTAL NET SEC 3 ENT.
90-100.0%	23	.55	.55	23	10,474	2.08	2.08	10,474
80-89.9%	19	.45	1.00	42	40,738	8.09	10.17	51,212
70-79.9%	24	.57	1.57	66	8,799	1.75	11.92	60,011
60-69.9%	30	.71	2.28	96	16,054	3.19	15.11	76,065
50-59.9%	31	.74	3.02	127	18,277	3.63	18.74	94,342
40-49.9%	34	.81	3.83	161	11,308	2.25	20.99	105,650
30-39.9%	79	1.88	5.71	240	31,639	6.28	27.27	137,289
20-29.9%	145	3.54	9.25	385	48,037	9.54	36.81	185,326
10-19.9%	434	10.32	19.57	823	129,596	25.74	62.55	314,922
00-9.9%	3,384	80.44	100.01	4,207	188,640	37.46	100.01	503,562
TOTALS	4,207	100.00	100.00	4,207	503,562	100.00	100.00	503,562

DEGREE OF FEDERAL IMPACT TABLE FY75 DATE 12/21/7

[illegible]

	NO. OF APPLS.	% OF TOTAL APPLICANTS	ACCUMULATED PERCENT	ACCUMULATED NO. OF APPLS.	TOT. PRC. NET ENTMT SEC 3 IN 1,000	PERCENT OF TOT. NET SEC 3 ENT.	ACCUMULATED PERCENT	ACCUMULATED TOTAL NET SEC 3 ENT.
90-100.00	33	.77	.77	33	13,257	2.41	2.41	13,257
80-89.99	19	.44	1.21	52	34,398	6.30	8.71	47,655
70-79.99	18	.42	1.63	70	7,435	1.32	10.03	55,090
60-69.99	33	.77	2.40	103	16,922	3.08	13.11	72,012
50-59.99	32	.74	3.14	135	12,446	2.27	15.38	84,458
40-49.99	39	.91	4.05	174	16,454	2.99	18.37	100,912
30-39.99	75	1.74	5.79	249	35,030	6.38	24.75	135,942
20-29.99	166	3.86	9.65	415	45,036	8.20	32.95	180,978
10-19.99	507	11.80	21.44	922	169,341	30.82	63.77	350,319
00-9.99	3,373	78.55	99.99	4,295	199,135	36.24	100.01	549,454
TOTALS	4,295	100.00	100.00	4,295	549,454	100.00	100.00	549,454

846

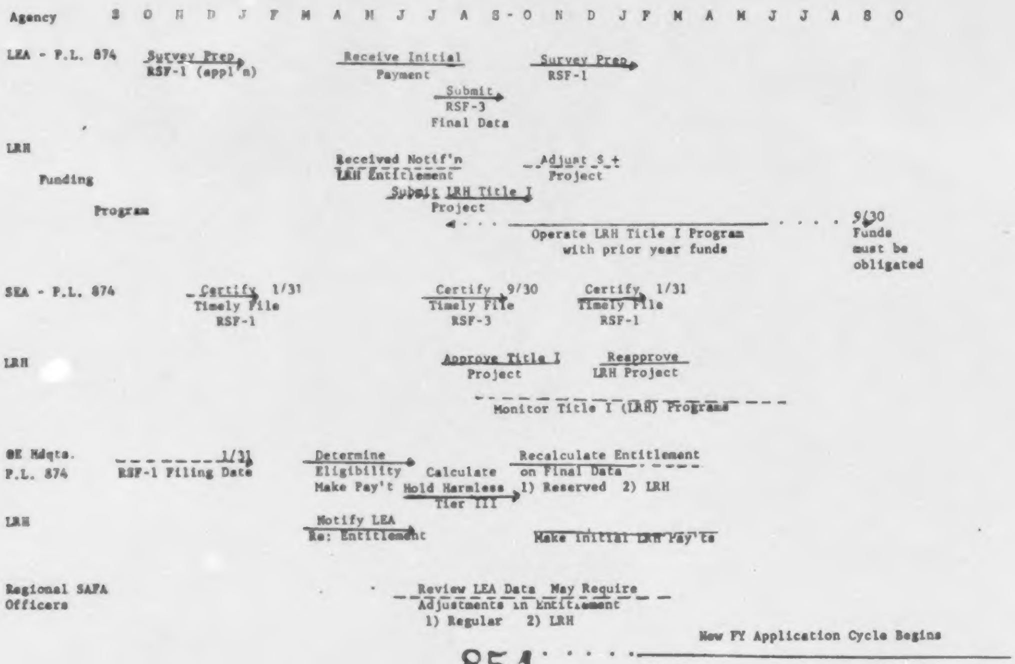
DISTRIBUTION TABLE SHOWING 1967 APPLICANT'S GROSS ENTITLEMENT UNDER SUBSECTION 3(C)(1), AND PERCENT 3(C)(1) ADA IS OF TOTAL ADA

	No. of Applications	Per. of Total No.	Accum. Per.	Accum. Total No. of Appl.	Amt. in Thousands	Per of Total Gross 3(C)(1) Entitlement	Accum. Per.	Accum. Total of Entitlement
90-100%	35	0.92	XX	XX	8,029	2.07	XX	XX
80-89.99%	28	0.73	1.65	63	15,338	3.96	6.03	23,367
70-79.99%	32	0.84	2.49	95	6,012	1.55	7.58	29,379
60-69.99%	29	0.76	3.25	124	6,370	1.64	9.22	35,749
50-59.99%	45	1.18	4.43	169	12,065	3.11	12.33	47,814
40-49.99%	53	1.39	5.82	222	13,657	3.53	15.86	61,471
30-39.99%	97	2.55	8.37	319	23,064	5.95	21.81	84,535
20-29.99%	202	5.31	13.68	521	61,212	15.80	37.61	145,747
15-19.99%	211	5.55	19.23	732	47,372	12.23	49.84	193,119
10-14.99%	366	9.62	28.85	1098	47,867	12.36	62.20	240,986
5-9.99%	900	23.65	52.50	1998	62,263	16.07	78.27	303,249
3-4.99%	850	22.60	75.10	2848	46,390	11.97	90.24	349,639
0.1-2.99%	947	24.89	99.99	3805	37,758	9.75	99.99	387,397
TOTALS:	3805	99.99	XX	XX	387,397	99.99	XX	

TAB D

Exhibit 7

Month and Activity



TAB E

FACT SHEET

SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES (IMPACT AID)

Authorization: Public Law 81-815, as amended
20 U.S.C. 631-647

Objectives: To provide financial assistance for the construction of school facilities in areas of Federal impact due to:

(1) Children who reside on Federal property; or

(2) Children who reside with a parent employed on Federal property; or

(3) Children whose membership results from activities of the Federal Government, either directly or through a contractor; or

(4) Children who reside on Federal property and for whom the local education agency may not expend State or local funds to provide school facilities; or

(5) a substantial number of children who reside on Indian lands, or Indian lands comprise a substantial part of the school district; or

(6) A substantial number of children who are inadequately housed in financially distressed school districts where Federal property constitues a substantial part of the area; or

To provide assistance to local education agencies whose facilities have been seriously damaged or destroyed by a major or pinpoint disaster; or to provide assistance to local education agencies to provide facilities for children who formerly attended private schools which were damaged by a major disaster and which will not reopen.

TAB F

Impact Aid - P.L. 81-815

Section 5 provides funds to local school districts to assist in the construction of school facilities for substantial increases in the numbers of Federally-connected children.

> Section 5(a)(1) - Children residing on Federal property (including Indian lands and low-rent housing units)
>
> Section 5(a)(2) - Children residing with a parent employed on Federal property in the same State as the school district or, outside the State if the property is within reasonable commuting distance of the school district.

Section 8 provides additional assistance if a local school district cannot finance the non-Federal share of proposed construction costs for unhoused Federally-connected children.

Section 9 provides assistance to local school districts and other Federal agencies for the acquisition or construction of school facilities that are needed only temporarily.

Section 10 authorizes direct Federal construction of school facilities on Federal property in cases where neither State nor local funds may be expended for such construction or where no local education agency is able to provide suitable free public education for children residing on Federal property.

Section 14(a) and (b) provide funds to local school districts for the construction of school facilities for a substantial number of children residing on Indian lands or where Indian lands comprise a substantial part of the school district.

Section 14(c) provides school construction assistance to financially distressed school districts where Federal property comprises a substantial part of the school district.

Section 16(a)(1)(A) provides assistance to local school districts for replacing or restoring school facilities destroyed or seriously damaged as a result of a major disaster.

Section 16(a)(3)(B) provides assistance to local school districts for the construction of school facilities for children who were attending private schools that have been destroyed or seriously damaged by a major disaster and will not be replaced.

Section 16(a)(1)(B) authorizes loans to local school districts for the construction of school facilities that have been destroyed or seriously damaged by a "pinpoint" disaster.

Section 16(b) authorizes the immediate use of funds made available for other sections of P.L. 815 pending an appropriation for disaster payments.

Exhibit 10

P.L. 81-815 as of 9/30/76

FY	Appro.	Appropriation Available for Obligation	Section 5	Section 8 or 9	Section 10	Section 14	Section 16
1978							
1977	25,000	25,000,000	7,300,000	-	6,000,000	10,300,000	1,400,000
1976	20,000	20,000,000	6,580,344	-	4,875,549	7,175,000	1,369,107
1975	20,000	20,000,000	7,273,226	-	933,477	8,320,124	3,473,173
1974	19,000*	31,171,196*	15,569,395	(8) 1,681,715	360,477	11,660,000	1,900,000
1973	25,910*	20,905,600*	9,376,643	-	2,323,997	5,204,960	4,000,000
1972	20,040*	25,653,560*	-	(9) 74,351	12,748,385	1,504,865	11,325,959
1971	15,000*	25,083,985*	-	(9) 370,600	14,873,586	5,477,124	4,362,675
1970	15,200*	13,084,845	995,051	(9) 34,000	4,707,972	2,603,868	4,743,954

* F.Y. 1970 through 1974 figures include prior year savings or release of funds held in reserve by OMB.

TAB G

Differences in Federally-conne[illegible]ren under P.L. 874 and P.[illegible]

For the first time since the two impact aid laws were originally approved in 1950, the determination of Federally-connected children under P.L. 815 differs from that applicable to P.L. 874. From the beginning of the School Assistance in Federally Affected Areas program in 1950 through the end of Fiscal Year 1974, the categories of pupils countable under Public Law 81-815 and 81-874 have been essentially similar. Beginning with Fiscal Year 1975 that condition is changed due to the effect of the amendments in Sections 302(a)(1) and (a)(2) of P.L. 93-380.

In essence P.L. 815 will now classify all children residing on Federal property, including Indian lands and low-rent housing property, as "A" category children. Thus, the potential entitlement for eligible applicant local education agencies which educate "A" category children residing on Indian lands will be increased under Section 5 processing actions. Likewise, the potential entitlement for local education agencies educating children residing on eligible low-rent housing property would be appreciably increased at such time as funding might be permitted on low-rent housing property children. These amendments conceivably could have the effect, but not necessarily so, of causing some applicant's to seek funding under Section 5 rather than under Section 14.

P.L. 815 permits the counting of children whose parents are employed on Federal property located in another State than that of the applicant school district, but within reasonable commuting distance; whereas, P.L. 874 discontinues the counting of such children entirely.

Future differences in the classification of "A" and "B" pupils under the provisions of the two Laws will increase record-keeping responsibilities on the part of applicant school districts and a corresponding increase will have been developed with respect to the administrative review responsibilities of our Program Officers who are charged with the duty of developing basic reporting data on the basis of which processing actions, to determine either eligibility or ineligibility, must rest. In the past, records maintained to support eligibility under the two impact aid laws have been usable interchangeably, generally speaking. Now, however, it frequently will be necessary for applicant school districts to maintain some degrees of record duplication in order to differentiate between those children countable under one category under P.L. 81-815 as opposed to the same children being countable under another category under P.L. 81-874. Where the problem involves commuting distance, the P.L. 81-815 applicant will need to maintain additional pupil records since those children are no longer countable under P.L. 81-874. Of course, the review responsibilities of the Program Officers will be magnified in that they can no longer use their review findings interchangably.

P.L. 874 - Status of Regulations

Proposed regulations for the reformed program effective in FY 1976 were published on December 5, 1976. A number of comments were received, among them, several indicated that they were extremely difficult to understand and expressed concern about the specifies of categorical aid. Since early this year we have been engaged in reviewing, discussing and rewriting-especially the regulations about low-rent housing pupils and the controversial use of funds for Title I-ESEA or Title-I type programs. We decided very recently to separate the categorical aid (low-rent housing and handicapped) from the other regulations in order to finalize the other regulations as soon as possible. We hope to issue these very soon. We hope, also, to finalize our reviews of the categorical aid portions and publish final regulations as early as possible next year.

Final drafts of regulations concerning Sections 5(d)(2) - equalization - including minor modifications of the "fiscal disparity test" and the (fiscal) wealth-neutrality test have been prepared. These drafts currently are being reviewed informally within OE. We anticipate that they will enter the formal clearance procedures before the end of the year and be published shortly, thereafter.

Janu 3, 1977

PINPOINT DISASTER PROGRAM

FACTS

1. Authorizing legislation: Public Laws 81-815 and 81-874
2. Final regulations: Published November 17, 1976
   Effective date: December 18, 1976
3. Letters from LEA's requesting assistance: 41 potentially eligible. 10 not eligible - arson or disaster prior to July 1, 1975.
4. Number and types of disasters - all requests.

   34 fire
   5 tornado
   8 wind, rain, hail
   3 mine subsidence
   1 drought
5. Memorandum to CSSO's with regulations - December 21, 1976.
6. Memorandum to State Representatives with regulations - December 29, 1976
7. Regulations sent out to SAFA Regional Program Officers.
8. OGC memorandum of December 23, 1976, re pinpoint disaster aid cutoff date.

PROBLEMS

1. Manpower to administer program, space and filing.
2. S&E funds.
3. Appropriations for Sections 16 and 7.
4. Priority of reviews.
5. Priority of funding (priority indices).
6. Application numbering system compatible with current ADP system.

7. Disapproval of applications where disasters occurred prior to July 1, 1975.

8. Declarations of pinpoint disaster.

9. Processing applications.

10. Monthly reporting to Budget Office.

11. Definition of full valuation.

12. LEA insurance coverage.

13. Reasonable amount of LEA-SEA funds for disaster recovery.

14. Retroactive payment.

15. Relocation of destroyed schools.

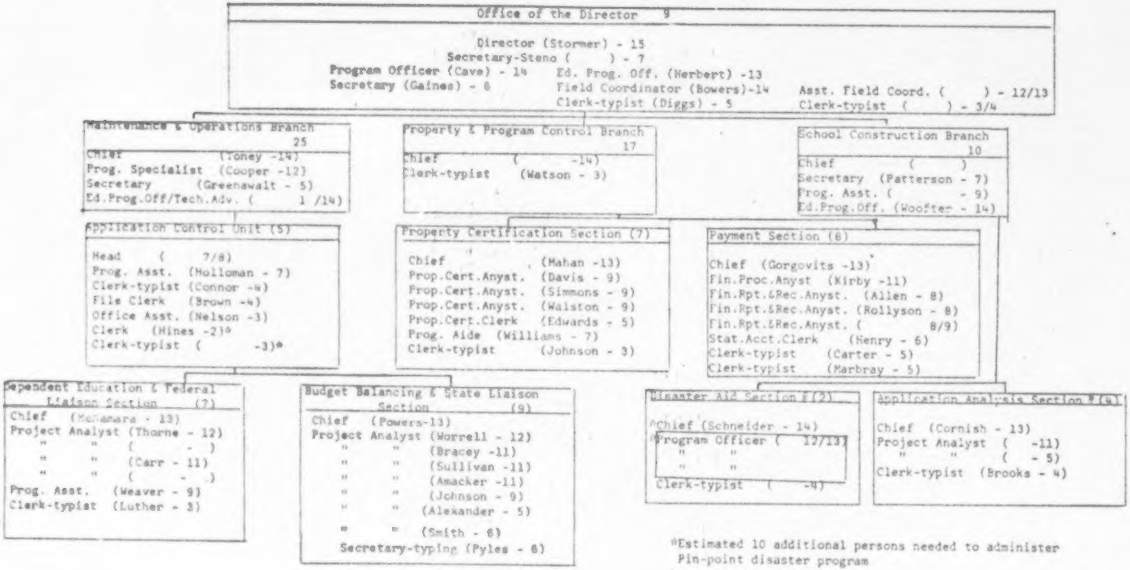
16. Question of restoration (16) or repair (7-b).

17. Project plan review and approval-project description.

18. Time and timing.

19. Congressional reaction.

TAB H


Office of the Director 9
Director (Stormer) - 15
Secretary-Steno ( ) - 7
Program Officer (Cave) - 14
Secretary (Gaines) - 8
Ed. Prog. Off. (Herbert) -13
Field Coordinator (Bowers)-14
Clerk-typist (Diggs) - 5
Asst. Field Coord. ( ) - 12/13
Clerk-typist ( ) - 3/4
Maintenance & Operations Branch 25
Chief (Toney -14)
Prog. Specialist (Cooper -12)
Secretary (Greenawalt - 5)
Ed.Prog.Off/Tech.Adv. (1 /14)
Property & Program Control Branch 17
Chief (-14)
Clerk-typist (Watson - 3)
School Construction Branch 10
Chief ( )
Secretary (Patterson - 7)
Prog. Asst. (- 9)
Ed.Prog.Off. (Woofter - 14)
Application Control Unit (5)
Head (7/8)
Prog. Asst. (Holloman - 7)
Clerk-typist (Connor -4)
File Clerk (Brown -4)
Office Asst. (Nelson -3)
Clerk (Hines -2)*
Clerk-typist (-3)*
Property Certification Section (7)
Chief (Mahan -13)
Prop.Cert.Anyst. (Davis - 9)
Prop.Cert.Anyst. (Simmons - 9)
Prop.Cert.Anyst. (Walston - 9)
Prop.Cert.Clerk (Edwards - 5)
Prog. Aide (Williams - 7)
Clerk-typist (Johnson - 3)
Payment Section (8)
Chief (Gorgovits -13)
Fin.Proc.Anyst (Kirby -11)
Fin.Rpt.&Rec.Anyst. (Allen - 8)
Fin.Rpt.&Rec.Anyst. (Rollyson - 8)
Fin.Rpt.&Rec.Anyst. (8/9)
Stat.Acct.Clerk (Henry - 6)
Clerk-typist (Carter - 5)
Clerk-typist (Marbray - 5)
Dependent Education & Federal Liaison Section (7)
Chief (McNamara - 13)
Project Analyst (Thorne - 12)
" " (-)
" " (Carr - 11)
" " (-)
Prog. Asst. (Weaver - 9)
Clerk-typist (Luther - 3)
Budget Balancing & State Liaison Section (9)
Chief (Powers-13)
Project Analyst (Worrell - 12)
" " (Bracey -11)
" " (Sullivan -11)
" " (Amacker -11)
" " (Johnson - 9)
" " (Alexander - 5)
" " (Smith - 6)
Secretary-typing (Pyles - 6)
Disaster Aid Section #(2)
*Chief (Schneider - 14)
*Program Officer (12/13)
" "
" "
Clerk-typist (-4)
Application Analysis Section #(4)
Chief (Cornish - 13)
Project Analyst (-11)
" " (- 5)
Clerk-typist (Brooks - 4)

*Estimated 10 additional persons needed to administer Pin-point disaster program

#Proposes Organization

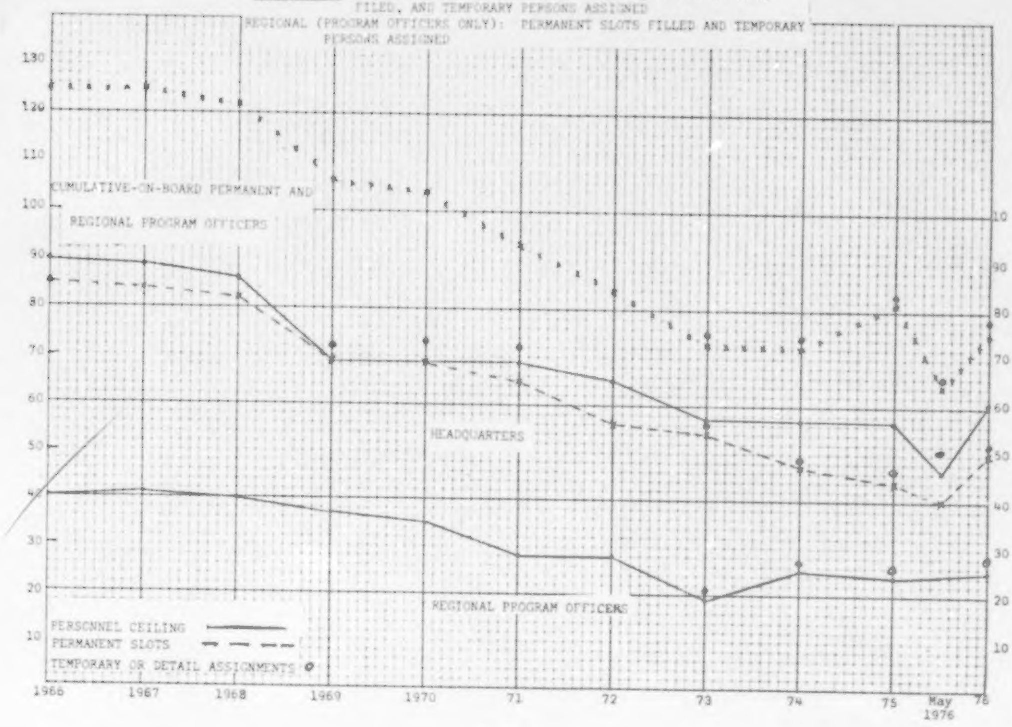
---

* Temporary

Exhibit 11 .

DEAFA PERSONNEL
1966-1976

HEADQUARTERS (PROFESSIONAL AND CLERICAL): CEILING, PERMANENT SLOTS FILED, AND TEMPORARY PERSONS ASSIGNED
REGIONAL (PROGRAM OFFICERS ONLY): PERMANENT SLOTS FILLED AND TEMPORARY PERSONS ASSIGNED



Appendix 4

P.L. 874, IMPACT AID PROGRAM
ESTIMATED MAXIMUM AUTHORIZATION, APPROPRIATION, AND BUDGET REQUEST LEVELS
FY66-FY78

Fiscal Year	Estimated Maximum Authorization	Total Appropriation	Percent [col. (3)/(2)]	Budget Request
1966	$ 369,107,000	$388,000,000	100.0%	347,000,000
1967	418,553,000	416,200,000	99.4%	183,400,000
1968	489,184,000	486,355,000	99.4%	416,200,000
1969	543,837,000	505,900,000	93.0%	395,390,000
1970	589,286,000	507,646,288	86.1%	266,550,000
1971	935,295,000	536,068,000	57.3%	425,000,000
1972	1,024,000,000	592,580,000	57.3%	425,000,000
1973	1,065,000,000	635,495,000	59.8%	415,000,000
1974	989,391,000	574,400,000	58.1%	273,500,000
1975	1,053,100,000	636,016,000	60.4%	320,300,000
1976	1,007,372,000	739,000,000	74.4%	256,000,000
1977	1,100,000,000	768,000,000	69.8%	315,000,000
1978	1,207,550,000	--	--	370,000,000

SOURCES: Department of Health, Education, and Welfare Budget Justifications, Appropriation Reports, and related documents, FY66-FY78.

REPORT TO THE HOUSE COMMITTEE ON EDUCATION AND LABOR

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

Assessment Of The Impact Aid Program

Office of Education

Department of Health, Education, and Welfare

This report contains several recommendations to insure that Federal impact payments to local educational agencies are equitable.

The report describes the effect on local educational agencies of teaching children whose parents are connected with the Federal Government. An analysis of data available for 1,671 local agencies showed that without impact aid entitlements 48 percent would need property tax increases of less than 5 percent and 18 percent would need increases of 5 to 10 percent. At the upper extreme, 15 percent of the local agencies would need property tax increases of 25 percent or more.

HRD-76-116

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-164031(1)

The Honorable Carl D. Perkins
Chairman, Committee on Education
and Labor
House of Representatives

Dear Mr. Chairman:

This report assesses the impact aid program authorized by Public Law 81-874, as amended, and administered by the Office of Education, Department of Health, Education, and Welfare. The report is in response to your request of January 28, 1974, and the requests of 13 members of your committee and 2 other Congressmen.

The report contains several recommendations to help insure that Federal impact aid payments to local educational agencies are equitable. It also presents the results of various analyses we made to determine (1) the economic impact of federally connected children on local educational agencies if all or part of their impact aid entitlements were withdrawn and (2) the effect various changes in eligibility and payments provisions would have on the program.

Copies of this report are being sent to each of the other requesters who are still Members of the Congress; to the Subcommittee on Elementary, Secondary, and Vocational Education; to the Director, Office of Management and Budget; and to the Secretary of Health, Education, and Welfare.

Sincerely yours,

Comptroller Genearl
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CHAIRMAN
HOUSE COMMITTEE ON EDUCATION
AND LABOR

ASSESSMENT OF THE IMPACT
AID PROGRAM
Office of Education
Department of Health,
Education, and Welfare

DIGEST

One purpose of the School Assistance in Federally Affected Areas program--known as the impact aid program--is to reduce fiscal inequities caused by

--the presence of tax-exempt Federal lands and

--the burden on local educational agencies of providing suitable free public education to children whose parents are connected to the Federal Government.

Ninety-three of 100 local agencies reviewed claimed either more or less than the number of federally connected pupils they should have. In total, they overclaimed a net of $578,224--slightly less than 1 percent of total assistance claimed.

At the time of GAO's fieldwork, the Office of Education had identified a net of $336,091 in overclaims and had adjusted the claims. Local agencies thus were overpaid a net total of $212,133. (See p. 7.) These findings apply only to the local agencies studied and should not be used to draw overall conclusions about the program.

Office of Education regulations and instructions for determining eligibility need to be clarified and better enforced.

The legislative history of the impact aid law suggests that eligibility rests on a dependency relationship between a child and a uniformed services parent. The Office of Education, however, does not require

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local educational agencies to determine this relationship. (See pp. 8, 11, and 12.)

Nor has the Office of Education defined adequately the requirements a parent must meet to be considered "employed on Federal property." It accepts claims for pupils whose parents temporarily work on Federal property regardless of where the parents are employed. In some local agencies this resulted in being reimbursed for pupils whose parents lived on and were employed by firms located on private property. (See p. 8.)

The Office of Education also does not require sufficient information on children having civilian parents to accurately determine their eligibility. (See pp. 11 and 12.)

The law provides that Federal payment rates can be established using local agencies which are generally comparable to the applicant. Office of Education instructions contain criteria for selecting comparable local agencies, such as legal classification, total number of pupils, and cost per pupil in average daily attendance. However, the Office has not established ranges for each criterion to assist State and local educational agencies in determining comparability nor specified what weight should be given to the various criteria items. Both of these factors are needed for comparable local agencies to be treated on a consistent basis. (See pp. 27 and 31.)

Office of Education procedures for approving payment rates derived using comparable local agencies are not consistent with its instructions for selecting such agencies. (See p. 33.)

The Secretary of Health, Education, and Welfare should direct the Office of Education to:

--Clarify requirements a parent must meet to be considered employed on Federal property so that payments to local agencies will better relate to the property tax-exempt status. (See pp. 22 and 23.)

--Require adequate documentation from local agencies to determine whether a child with a civilian parent employed or working on Federal property resides with that federally connected parent. (See p. 23.)

--Require adequate documentation from local agencies to determine whether a child is a dependent of a uniformed services parent. (See p. 23.)

--Specify in instructions for State and local educational agencies the weight that should be given to the published criteria items, and establish ranges for each criterion to assist in compiling the data necessary for selecting comparable local educational agencies. (See p. 39.)

--Develop procedures for approving Federal payment rates based on comparable local agencies which are consistent with its instructions. (See p. 39.)

--Require applicants to use as comparables only those local agencies that do not receive impact aid or determine an alternative procedure to remove the influence of federally connected children from per-pupil cost calculations. (See p. 40.) For related recommendations see pages 22 and 39.

GAO conducted additional analyses of fiscal year 1973 data available for 1,671 local agencies to develop information on the economic impact of federally connected children and found that without impact aid entitlements:

--Forty-eight percent of the 1,671 local agencies would need local property tax increases of less than 5 percent and an additional 18 percent would need tax increases of 5 to 10 percent. At the upper extreme, 15 percent of the local agencies would need tax increases of 25 percent or more. (See p. 44.)

--An increase of less than $25 in local property taxes on a home with a market value of $40,000 would result for 48 percent of the local agencies, and an increase of $25 to $50 would result for 25 percent of the agencies. At the upper extreme, an increase of $100 or more would result for 15 percent of the local agencies. (See p. 47.)

GAO also applied alternative eligibility and payment provisions to the program and found that total impact aid entitlements could have been reduced between $68 million and $351 million, using fiscal year 1973 as a basis. (See p. 49.)

HEW concurred with most GAO recommendations, and HEW's planned actions are responsive to the recommendations. However, HEW had a different view about obtaining information to determine whether a child is a dependent of a uniformed services parent in order to be eligible for the program. Also, HEW believed that its procedures for approving Federal payment rates using comparable local agencies was consistent with its instructions for selecting such agencies. GAO disagreed with both views.

HEW said that some of the procedures and conditions in effect during the GAO review of Public Law 81-874 in fiscal year 1973 are no longer the same due to the complex changes made by Public Law 93-380 which was approved August 21, 1974, and became effective in fiscal year 1976. GAO pointed out it believes the discussions on the Office of Education's procedures for determining eligiblity and its instructions and procedures for determining payment rates are still pertinent to the program.

CHAPTER 1

INTRODUCTION

At the request of 14 members of the House Committee on Education and Labor and 2 other Congressmen, we reviewed certain aspects of the School Assistance in Federally Affected Areas (SAFA) program authorized by Public Law 81-874, approved September 30, 1950, as amended (20 U.S.C. 236). This program, known as the impact aid program, is administered by the Office of Education (OE), Department of Health, Education, and Welfare (HEW). Title I of this law authorizes financial assistance for maintaining and operating local educational agencies (LEAs) in which enrollments are affected by Federal activities.

In accordance with the requests and later agreements with the requesters, we reviewed (1) the validity of claims for Federal funds, (2) the economic impact of federally connected children on LEAs, (3) the SAFA payment rates compared to local educational costs, (4) the impact on the applicant LEA of reducing SAFA payments to eliminate claims for parents working on Federal properties located outside the LEA, and (5) the impact of one State's equalization program on SAFA recipients. In addition, we reviewed the adequacy of OE's regulations and instructions for determining eligibility and payment rates.

We limited our review to LEAs receiving assistance under title I, sections 2, 3(a), and 3(b) of Public Law 81-874, for fiscal year 1973. The Education Amendments of 1974, dated August 21, 1974, changed these sections effective in fiscal year 1976, which can increase or decrease Federal payments to LEAs. Although our report deals with LEAs which received assistance in fiscal year 1973, our discussions on OE procedures for determining eligibility and instructions and procedures for determining payment rates are still pertinent.

PROVISIONS OF SECTION 3 OF PUBLIC LAW 81-874

One purpose of Public Law 81-874 is to minimize the fiscal inequities caused by both the presence of tax-exempt Federal lands and the burden of providing suitable free public education to federally connected children. Under title I, section 3, of Public Law 81-874, as amended (20 U.S.C. 238), LEAs are to be compensated for the cost of educating children who while attending such schools (1) resided on tax-exempt Federal property with a parent employed on Federal property or had a parent who was on active duty in the uniformed services--section 3(a)--or (2) were not included in section 3(a) and either resided on Federal property or resided with a parent employed on Federal property or (3) had a parent who was on active duty in the uniformed services--section 3(b).

An LEA may be eligible for compensation if it provides free public education to 400 or more federally connected children, as defined above, in average daily attendance (ADA). An LEA may still be eligible if it provided such education to at least 10 federally connected children in ADA and they represented 3 percent or more of the total children in ADA. The LEA is reimbursed for these students under a formula prescribed in the legislation: the number of children in ADA as defined in section 3(a) is added to one-half of the children in ADA as defined in section 3(b); the resulting sum is multiplied by a local contribution rate. (Ch. 3 discusses minimum rates and local contribution rates.)

The legislation does not specify the uses that can be made of such funds. Most LEAs deposit the Federal funds in their general operating expense accounts with all other available funds. The combined accounts are used to finance the LEAs' total school programs. The program is not designed to produce specific educational outcomes of school children. The legislation also provides that impact aid funds cannot be used to supplant State funds.

PROGRAM ADMINISTRATION

OE's SAFA division administers Public Law 81-874. The division develops policies and procedures for carrying out the law and distributes bulletins, instructions, and application forms to LEAs through State educational agencies (SEAs). LEAs send applications through their SEAs to the division for review and approval. Payments, however, are made directly to LEAs.

The division performs most activities from Washington, D.C. Field representatives in the 10 HEW regional offices make reviews at the LEA level, such as verifying data supporting LEAs' claims by investigating eligibility of property and children, and advise LEAs on records to be maintained to support their claims.

Division criteria state that OE field representatives should review each LEA receiving sections 3(a) and 3(b) impact aid funds at least once every 3 years. Criteria for selecting LEAs for field reviews are set by division headquarters, although regional commissioners of education are free to develop other criteria. According to division criteria, field representatives, in selecting LEAs for review, are to consider (1) LEAs which have not received a field survey in the last 3 years, (2) new applicants or applicants reapplying after a lapse in participation, (3) LEAs for which there are indications of ineligibility, and (4) LEAs which are marginal qualifiers under the 3-percent federally connected pupil requirement.

PROGRAM FUNDING

Payments under sections 3(a) and 3(b) have increased from $25 million in fiscal year 1951 to $548.7 million in fiscal year 1975. The following table shows statistics on the program's growth.

Fiscal year	Section 3(a) children in ADA	Section 3(b) children in ADA	Sections 3(a) and 3(b) payments to LEAs	Sections 3(a) and 3(b) entitlements if fully funded
			(millions)	
1951	50,701	385,754	$ 25.0	$ 26.0
1956	107,910	834,006	80.9	80.9
1961	231,275	1,361,769	198.6	198.6
1966	319,374	1,777,515	346.3	346.3
1971	384,380	2,062,584	478.6	594.9
1974	354,507	1,679,579	497.5	668.7
1975	342,343	1,607,484	548.7	705.9

This growth is attributable to several factors, including increases in school population, increases in school expenditure per pupil, expanded Federal activity, and amendments liberalizing the basic legislation.

If the program had been fully funded, these increases would have been much larger in fiscal years 1971-75. As shown, entitlements for fiscal years 1971, 1974, and 1975 were greater than actual payments to LEAs. Whenever funds appropriated for section 3 are not adequate to pay total entitlements, the funds are prorated--as in fiscal years 1951 and 1955 and every year since 1967.

For fiscal year 1975, $636.6 million was made available for Public Law 81-874, of which $548.7 million was for sections 3(a) and 3(b). The appropriation legislation directed OE to pay claims for federally connected children under section 3(a) at 90 percent of entitlements or, if such children comprised 25 percent or more of the LEA's total enrollment, at 100 percent. Section 3(b) claims were to be paid at 68 percent of entitlements.

BASIS FOR SELECTING LEAS

From a total of 4,581 LEAs receiving SAFA funds, we selected for review a sample of 100 in 17 States which received $61.7 million under sections 3(a) and 3(b) in fiscal year 1973. The sample was chosen primarily to test the accuracy of LEAs' claims for payment and to determine how OE applied eligibility criteria to individual LEAs. Selection was based on several criteria including number of eligible children in the LEAs and percent of payments received:

Number of eligible children	LEAs in the program		Percent of total payments received	Number of LEAs in sample
	Percent	Number		
0 to 399	81	3,711	15	43
400 to 2,499	15	687	28	30
2,500 and over	4	183	57	27
Total	100	4,581	100	100

Another criterion was the percent of eligible children in the LEA of total number of children in enrollment:

Percent of eligible children of total number of children in enrollment	LEAs in the program		Number of LEAs in sample
	Percent	Number	
0 to 9.99	58	2,657	48
10 to 24.99	26	1,191	29
25 and over	16	733	23
Total	100	4,581	100

A third criterion was reasonable geographic distribution. The 100 LEAs are located in 17 States.

Because the LEAs in our sample were selected judgmentally, we did not project our findings to the total number of LEAs in the program, but we did project assistance claimed by the 100 LEAs to the total number of children and the total section 3(a) and 3(b) assistance. The findings apply only to the LEAs studied and the results cannot be used to draw overall conclusions about the SAFA program. The sample included 297,963 children claimed as eligible, or 13.5 percent of the total children claimed in the program. The sample also represents $61,726,872, or 12.1 percent, of the total section 3(a) and 3(b) payments for fiscal year 1973. The LEAs we reviewed are listed in appendix I.

SCOPE OF REVIEW

At OE headquarters in Washington, D.C., and at HEW regional offices in Atlanta, Boston, Dallas, Denver, Kansas City, and San Francisco, we interviewed officials and reviewed applicable legislation, regulations, policies, and procedures for administering the SAFA program. We also examined assistance applications and other records of the 100 LEAs for fiscal year 1973 and interviewed LEA officials. In addition, we reviewed allocation formulas of the States in which the 100 LEAs were located. We gathered data for making program sensitivity analyses at OE headquarters.

CHAPTER 2

VALIDITY OF CLAIMS FOR IMPACT AID FUNDS

Of the 100 local educational agencies we reviewed, 93 claimed either more or less than their eligible number of pupils. In total these LEAs overclaimed a net of $578,224--slightly less than 1 percent of their total assistance claimed. However, Office of Education program personnel, on the basis of their review of the LEAs' claims at the time of our fieldwork, identified a net of $366,091 in overclaims and adjusted the claims. Therefore, the LEAs were overpaid a net total of $212,133.

OE regulations and instructions for determining eligibility need to be clarified and better enforced to prevent LEAs from overstating or understating their claims. Also, OE procedures for average daily attendance computation need improvement to adjust for differences in the ways States compute ADA.

In addition to reviewing LEAs' claims for impact aid funds, we reviewed State aid allocation formulas in the States in which the LEAs were located and noted that two States appeared to have been using section 3 funds to supplant State funds in violation of Public Law 81-874.

PROGRAM REQUIREMENTS

Applicants must submit two forms to OE for section 3 impact aid--an initial application and a final report. The initial application requests financial assistance for a given fiscal year. It is to provide adequate information for OE to determine whether the LEA is eligible for payment by having 400 or more federally connected students or at least 10 who comprise at least 3 percent of the LEA's total ADA. It also serves as the basis for a partial payment of estimated entitlement.

Final payment is made when OE receives and reviews the final report. This report gives information on the entire fiscal year as a basis for determining the actual amount of payment to which the LEA is entitled. Payments are made on a fiscal year basis ending June 30. However, the LEA's actual ADA and current expenditures for the fiscal year are not known until after this date. Thus, to give the time necessary for compiling data, OE regulations require that the final report be submitted no later than September 30 following the end of the fiscal year.

Applicants must document the eligibility of pupils claimed either by a parent-pupil survey or with certificates from employers or appropriate housing officials certifying that the parent is employed or residing on Federal property. Because of the administrative ease of conducting parent-pupil surveys, most LEAs use this method.

OE allows applicants to make the parent-pupil survey on a date of their choosing, but no earlier than the fourth day of the regular school year and no later than a date which will allow the State educational agency to review and mail the application to OE before January 31. Surveys are made by sending questionnaires to parents. Applicants may also, if they feel it is to their advantage, make a second survey during the last quarter of the regular school year and average the results of the two surveys in final requests for funds.

ACCURACY OF CLAIMS

Of the 100 LEAs, 93 claimed either more or less than the number of pupils for which they were eligible. In total these LEAs overclaimed a net of $578,224--slightly less than 1 percent of their total assistance claimed. However, OE officials, on the basis of their review of these claims at the time of our fieldwork, identified a net of $366,091 in overclaims and adjusted the claims before making payments. Therefore, the LEAS were overpaid a net total of $212,133.

For the 100 LEAs, we determined that free public education was being given to 400 or more federally connected children in ADA or, if less than 400, that the LEA provided such education to at least 10 federally connected children representing 3 percent or more of the total children in ADA. We reviewed documentation to determine that the pupil was classified correctly as a section 3(a) or 3(b) pupil and that the LEA's claim was in accordance with OE regulations and instructions in effect for fiscal year 1973. The types of errors that recurred most frequently were claiming pupils who were not residing with the federally connected parent and mistakes in calculating ADA.

We brought our findings to the attention of OE officials in a May 30, 1975, letter to give them an opportunity to review the findings and take appropriate corrective action. The officials said that OE would follow up on these claims and does not consider payments as final until a detailed review of supporting records has been completed or 3 years have elapsed without such a review. Any overpayment can be deducted from payments due the LEA for later claims. OE instructions stipulate that an LEA generally cannot be paid more than the amount claimed on its final report. Therefore, the amount underclaimed cannot be reimbursed. Overclaims paid, however, can be offset against underclaims in later years.

OE REGULATIONS AND INSTRUCTIONS FOR DETERMINING ELIGIBILITY NEED TO BE CLARIFIED AND BETTER ENFORCED

We identified several areas where OE regulations and instructions for determining eligibility need to be clarified and better enforced to minimize the chance of LEAs overstating or understating claims for impact aid funds.

Defining eligibility

OE has not, except for a few special employment situations, issued regulations or instructions defining the requirements which a parent must meet to be considered "employed on Federal property." It accepts claims for pupils whose parents are working temporarily on Federal property on the day the parent-pupil survey is taken, regardless of where the parents are actually employed. OE uses the terms "working on" and "employed on" synonymously. Thus, some LEAs are reimbursed for pupils whose parents live on and are employed by firms located on private property.

Employed on Federal property

Public Law 81-874 does not define employed on Federal property. However, as stated in House Report No. 2287, 81st Congress, 2d Session (1950), the law attempts to reimburse LEAs for the burden imposed upon them because of the tax-exempt status of the Federal property:

> "Under the present pattern of school financing in the various States, most local educational agencies meet the local cost of educating their children from real-property tax revenues. Approximately half of the real-property tax required to meet the local share of the cost of educating a child is derived from taxation on

> residential property and half from taxation on commercial and other real property - in other words, half from taxation on homes where children live and half from taxation on the factories and offices where their parents work. The local educational agency derives no such revenue in the case of a child who lives on tax-exempt Federal property and whose parent is employed on such property."
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> * * * * *
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> "The effect on communities required to provide education to many children of parents whose residence or employment on Federal property deprives the educational agency of revenues is at the heart of the problem which confronts most of the school districts now suffering so severely from establishment or reactivation of Federal activities in their communities."

It thus appears that School Assistance in Federally Affected Areas was not intended to include those children whose parents were temporarily working on Federal property on the survey day because this does not reduce the property tax revenues available to the LEAs.

OE defines "employed on" for special employment situations involving lumbering, grazing, and farming Federal lands. In these situations OE's instructions consider a person employed on Federal property if, during a given period, he spent a greater part of his working time on Federal property than on non-Federal property. To establish eligibility for SAFA payments, LEAs using the parent-pupil survey must certify that persons in these special employment situations worked over 50 percent of their time on Federal property between July 1 and the parent-pupil survey date.

Various interpretations of the term "employed on"

The LEAs' interpretations of the term "employed on Federal property" varied. The parent-pupil survey form at one LEA requested both the place where the parent worked on the survey date and the location of the parent's employer. In fiscal year 1973 the LEA claimed and received payments for several pupils whose parents were temporarily working on but were not employed on Federal property. One parent, a glass company employee, was installing windows in a Federal building on the survey date. Another parent was a physician working as a consultant for a Veterans Administration hospital on the survey date. The physician stated on his survey form that he was a part-time consultant who worked about 4 hours a week for the hospital. Another parent was a pharmaceutical salesman who called on the hospital on the survey date.

OE's general acceptance of LEAs' claims for children of parents in such temporary situations may have caused two other LEAs we reviewed to initiate the following actions:

--One LEA, in its instructions to teachers before the survey date, reminded them of the SAFA eligibility standards by stating that: "If the parent works for Coca-Cola Bottling Company and his route on [the survey date] is [through a Marine Base] he qualifies for Federal impact aid. Stress this point to your class."

--Another LEA sent a memorandum to a parent suggesting that he arrange his music teaching schedule so that he would be working at a school located on eligible Federal property on the survey date. Consequently, four of his children were claimed for SAFA purposes.

Another LEA did not adhere to OE instructions for determining eligibility in special employment situations. The LEA claimed, and OE approved, payments of about $14,000 for 103 children of loggers even though the LEA only had documentation showing that the parents were working on Federal property on the survey date. It had no documentation showing that these parents worked over 50 percent of their time on Federal property. An OE official responsible for reviewing LEA claims in that HEW region said he only required an employer's certification that persons employed in these situations were working on Federal property on the survey date.

Not specifically defining the term "employed on" may have led some LEAs in another HEW region to interpret its meaning narrowly. Instructions issued with the survey form by one LEA, for example, requested that parents who reside on, are employed as full-time civilian employees on, or are assigned to one of the installations listed complete the form.

Three other LEAs stated in their instructions that parents who operate routes, such as milk, newspaper, and soft drink routes, are not eligible unless they operate from a station located on Federal property. This interpretation seems to be more consistent with the basic intent of the law but not consistent with the way OE generally administers the law.

Identifying eligible children

One frequent LEA error was to claim children who did not reside in the household of the federally connected parent. Although OE regulations and instructions require LEAs to document that a child actually resides with a civilian federally connected parent, they were seldom adhered to. Of the 100 LEAs, 21 did not have adequate documentation to determine if the child resided with the federally connected parent.

OE regulations and instructions do not adequately define the eligibility requirements for a child residing with a parent in the uniformed services. None of the LEAs we reviewed had documentation which would have permitted OE to have accurately determined, without going to other sources, the validity of claims based on such children. Furthermore, OE procedures for approving claims based on a child's having a parent in the uniformed services do not appear to be consistent with the intent of the law.

Proof of the child-parent relationship and the parent-Federal property relationship are essential for determining student eligibility. OE verifies a child's eligibility on the basis of information included in each LEA's parent-pupil survey form or on certificates from employers or appropriate housing officials. The information needed depends on whether the child has (1) a civilian parent employed or residing on Federal property or (2) a parent serving in a branch of the uniformed services.

Children with a civilian parent

To be eligible the law requires that a pupil reside on Federal property or reside with a parent employed on Federal property. OE requires applicants using parent-pupil survey forms to include the pupil's address and the name of the parent employed on Federal property with whom the child resides.

Of the 100 LEAs, 79 complied with OE's requirement. However, 7 of the 79 also requested the address of the federally connected parent as additional information on their survey forms; with this type of data obvious errors were identified by OE before approving the claims. Without the address of both the parent and the child, OE officials could not accurately determine whether the pupil actually resided with the federally connected parent unless they checked other sources. Because this is time consuming, it was normally done only when it appeared that the child may not have resided with the federally connected parent--for example, when the surnames of the person signing the form and the parent differed.

Children with a parent in the uniformed services

During our fieldwork, OE required that a pupil with a parent in the uniformed services reside in that parent's household to be eligible, although its instructions to LEAs stated that such pupils are presumed to reside with the parent. If the child resided with a parent divorced or separated from the uniformed services parent, OE generally considered the child ineligible and disallowed the claim. OE enforced this policy even though it was not stated in the law or in its instructions or regulations.

In May 1975 OE changed its regulations so that it is not necessary for the pupil to reside with the uniformed services parent. Because the previously enforced requirement was not supported by the law or its legislative history, LEAs now must document only that the pupil has a parent in the uniformed services.

The legislative history of Public Law 81-874 suggests that to be eligible the child should be a dependent of the uniformed services parent. It would seem to be inconsistent with the overall purpose of the impact aid program to interpret the term "parent" in section 3(b)(3) of the act to include an individual who neither lives with nor supports his child. OE's past and present regulations and instructions do not require determining the dependency relationship between the uniformed services parent and the child.

OE regulations require LEAs to ascertain the uniformed services parent's name, rank, serial number, and branch. This is not adequate for determining the child's dependency relationship with such parent.

Illustrative of the problems encountered from not defining eligibility requirements for children with a uniformed services parent, OE officials in three HEW regions said they considered pupils ineligible if they resided with a parent divorced or separated from the parent in the uniformed services parent. An LEA official in one region disagreed with this definition because he believed that a child's eligibility should be based on where the child lived and whether the parent in the uniformed services was paying child support. Although this latter interpretation seems to be consistent with the legislative intent, claims for such children, if identified during OE's review in the three HEW regions, would have been disallowed. In this LEA's fiscal year 1973 claim, we identified nine pupils of separated parents that were not detected by the OE representative and thus were approved.

OE officials told us that in the past they disallowed many claims for children with uniformed services parents because the parents were divorced or separated. The dependency relationship between the federally connected parent and child was not considered. OE generally detected that parents were divorced or separated when such information was volunteered on the parent-pupil survey forms or where the surnames of the parents differed and other sources substantiated a divorce or separation.

Because past claims were disallowed if the child resided with a parent divorced or separated from the uniformed services parent, OE may have disapproved valid claims.

Effect of not defining or enforcing eligibility requirements

We did not verify the information given on all parent-pupil survey forms reviewed and, therefore, did not ascertain the amount of the overclaims resulting from OE's not enforcing its requirement that LEAs document that claimed children's residence with a civilian federally connected parent. Furthermore, we cannot estimate the possible overclaims or underclaims resulting from OE's not considering the dependency relationship between the child and the uniformed services parent.

As part of our review, however, we did verify, by checking with school officials or parents, certain required data missing from parent-pupil survey forms or information indicating that the claim may have been ineligible--for example, when the surname of the federally connected parent and the person signing the form differed. We determined that 1,018 pupils in 59 LEAs, the basis for an estimated $137,928 in claims, were ineligible because they were not residing with the civilian federally connected parent or may have been ineligible under the pre-1975 regulations because they were not residing in the household of the uniformed services parent. We did not determine whether the children claimed on the basis of a uniformed services parent were dependents of the parents. However, they would have been declared ineligible by OE under the policy in effect during our fieldwork if it had been determined that the parents were divorced or separated.

Procedures for computing ADA need improvement

Another frequent error was inaccurately calculating total ADA, which is the basis for estimating federally connected ADA. In addition, we found 35 of the 100 LEAs did not adjust total ADA to obtain federally connected ADA in accordance with OE procedures.

Furthermore, OE does not have procedures to adjust for differences in the ways States compute ADA. One State, although within the law, was receiving more SAFA funds than another State because of its method of computing ADA.

OE requirements for computing federally connected ADA

OE regulations require LEAs to determine federally connected ADA by multiplying the total yearend ADA by the ratio of pupils in each federally connected category to total school enrollment. Since actual total ADA is not known until the end school year, LEAs using the parent-pupil survey estimate the final figure using total ADA from the beginning of the school year to the survey date. OE then uses this figure as a basis for making interim payments. After the school year ends, the LEA files a final report showing actual total ADA for the year, which is used as the basis for final payments. Final payments are subject to change based on the results of OE field reviews of the LEA's records.

The data needed for this procedure is (1) number of federally connected pupils in each category in attendance on the survey date, (2) total school enrollment on that date, adjusted to exclude pupils for whom the LEA is paid tuition, prekindergarten pupils, and pupils 21 and older, and (3) total ADA at yearend, adjusted to exclude pupils noted in (2). The resulting formula is:

$$\text{Federally connected pupils at survey date} \times \frac{\text{Adjusted yearend ADA}}{\text{Adjusted total school enrollment at survey day}} = \text{Federally connected ADA}$$

OE field representatives are responsible for verifying that LEAs compute ADA in accordance with State law and OE regulations. OE accepts each State's definition of ADA. It has no procedure to equalize different methods of computing ADA. Some States we reviewed did not audit the ADA figures submitted by LEAs. However, OE headquarters officials said that in most cases field representatives verify the unadjusted total ADA with required State reports and then verify that the required SAFA adjustments have been made.

Errors in ADA

Overstating or understating final ajdusted total ADA directly affects federally connected ADA and thus the payments which OE makes to LEAs. Of the 100 LEAs, 35 did not make adjustments in accordance with OE procedures. Although OE representatives corrected most errors concerned with required adjustments in those LEAs reviewed before our fieldwork, they verified only that total unadjusted ADA was the same as that reported to the State.

In several instances inaccurate or unverifiable yearend ADA figures were submitted to OE. Two LEAs, for example, submitted figures for incorrect years and two other LEAs--in a State which did not audit its LEAs' figures--were unable to reconcile the ADA reported to the State with that reported to OE.

Impact of varying State ADA computations

Methods used to compute adjusted yearend ADA directly affect federally connected ADA and payments to LEAs when minimum payment rates are used. [1]

In one State LEAs estimated their ADA by averaging the number of pupils who attended school on 2 given days, one near the beginning and one near the end of the school year. In another State, beginning in fiscal year 1974, LEAs estimated ADA from attendance data taken over a 4-week period. LEAs in a third State, although they calculated ADA using data collected over the entire school year, included some absentees in their figures. LEAs in most other States we reviewed excluded all absentees. Thus, the computed total ADA of LEAs in the third State was higher than it should have been and resulted in higher claims because they used minimum payment rates.

To determine the effect of including absentees in ADA calculations, we recomputed 1973 SAFA payments for LEAs using minimum payment rates in two States. One required LEAs to exclude all absentees from the computation, while the other required LEAs to exclude only unexcused absentees. Had the latter method been used by LEAs in the State excluding all absentees from ADA, their SAFA payments would have been about $15 million, or $1.3 million more than the $13.7 received. Conversely, had LEAs in the other State excluded all absentees and experienced the same rate of absences as in the first State, their SAFA payments would have been $15 million, or $1.1 million less than the $16.1 million received. The payment changes are solely the result of the different methods used in computing ADA combined with the use of minimum payment rates.

Possible alternative procedure

To prevent one State from receiving more aid than another solely because of the procedure for computing total ADA, OE could adopt an alternative method of computing federally connected ADA when (1) a State's computation results in that State receiving more aid than another State or (2) an LEA's reported total ADA must be considered an estimate because it was not computed by dividing aggregate days in attendance by the number of days in the school year, or was not verified by the SEA.

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[1] For LEAs not using minimum payment rates, the formula for computing SAFA payments nullifies this effect. The legislation provides for minimum payment rates, discussed further in ch. 3, which are used by most LEAs in the program.

The current formula provides that the number of federally connected pupils in attendance on the survey date be multiplied by the ratio of the adjusted yearend ADA to adjusted total school enrollment at survey date.

$$\text{Federally connected pupils at survey date} \times \frac{\text{Adjusted yearend ADA}}{\text{Adjusted total school enrollment at survey date}} = \text{Federally connected ADA}$$

When this ratio results in higher payments in one State than in another because of the computation used to determine ADA, a national average of the ratio between ADA and total school enrollment can be used instead. The following hypothetical example shows the results of applying such an alternative method. Some changes in the legislation may be needed for OE to make use of an alternative method.

LEA data		National average ADA (note a)
200	Federally connected pupils at survey date	ADA = 90 percent of total school enrollment
390	Adjusted yearend ADA	
400	Adjusted total school enrollment at survey date	

a/This figure would be derived by averaging the ADA and enrollment figures reported to OE by the States.

Applying the current formula, the LEA data would yield 194 federally connected pupils (200 X (390÷400)=194). Applying the proposed alternative, the LEA data would yield 180 federally connected pupils (200 X .90 = 180).

Using a national average ADA would require LEAs to report only federally connected enrollment at the survey date and OE to review that figure for accuracy. By using this method OE would provide a standardized procedure to help insure that ADA estimates are computed on the same basis and thus eliminate the impact on SAFA payments of certain States' methods of computing ADA.

LEAS CAN RECEIVE SAFA AND OTHER FEDERAL PAYMENTS FOR THE SAME FEDERAL PROPERTY

As agreed with our requesters, we are providing the following information on some LEAs we reviewed who received both Federal impact aid funds and funds from other Federal sources for the same Federal properties because of the properties' tax-exempt status.

The intent of section 3 of Public Law 81-874 is to offset the financial burden placed on LEAs because they provide free education for children residing on tax-exempt Federal property or residing with a parent employed on such property. There are other programs under which the Federal Government makes payments to States and local governments because of the presence of tax-exempt Federal properties, and some of these payments are also used in financing educational costs. Several LEAs we reviewed received such payments for Federal properties. The most common of these payments were from the National Forest funds, authorized under 16 U.S.C. 500, and from the Taylor Grazing Act funds authorized under 43 U.S.C. 315(i).

The National Forest Fund, administered by the Department of Agriculture, consists of revenue derived from national forests through timber sales and other activities. The Department returns 25 percent of such revenues to States to benefit the county public schools and roads in which the national forests are located.

The Taylor Grazing Act Fund, administered by the Department of the Interior, receives 12.5 percent of fees collected for using Federal land for grazing purposes and returns it to States for, among other things, the benefit of public schools in the counties in which the land is situated. These funds are intended to compensate local governments because the properties in question are no longer available for private ownership and thus are not taxable.

Before a 1968 amendment to Public Law 81-874, other Federal payments made on the basis of Federal property which had children associated with it had to be deducted from SAFA payments made on the basis of the same property. This provision was to avoid duplicating Federal payments. As a matter of administrative efficiency and convenience, the law provided that no deduction needed to be made from SAFA payments unless the other Federal payments exceeded $1,000.

In 1968 the law was amended to provide that other Federal payments made on the basis of the tax-exempt status of Federal property which had children associated with it could be received by LEAs along with their SAFA payments. The legislative history is silent regarding the rationale for this change.

In fiscal year 1967, according to OE, the Government saved over $5 million as a result of deducting from LEAs' SAFA claims the payments they received from other Federal agencies for the same Federal properties.

In fiscal year 1973 two LEAs we reviewed received Federal funds of $57,150 and $48,948 derived from national forest revenues. Their SAFA claims for that year, based on pupils of parents employed on the same Federal properties, amounted to $3,949 and $3,904, respectively. Another LEA received $70,453 in Federal payments from national forest revenues, grazing revenues, and other Federal sources. Its SAFA claim for the same properties was $84,453.

One State not included in our review received considerable national forest funds. In 1972, for example, 24 counties received $28.5 million in such funds for public roads and schools. In 1972 the LEAs in those same counties received $1.3 million in SAFA payments on the basis of persons working in national forests.

IMPACT AID FUNDS USED TO SUPPLANT STATE FUNDS

For fiscal year 1973--the most recent year with complete data available for review--impact aid funds, by law, could not be paid to any LEAs in States which considered such funds as local resources in determining eligibility for or computing the amount of State aid to be given to individual LEAs. This provision was intended to prevent States from using impact aid funds to supplant State funds.

The Education Amendments of 1974 amended title I of Public Law 81-874--effective in fiscal year 1976--to permit any State which has an acceptable plan to equalize expenditures for public education to consider impact aid payments in determining the relative financial resources available to LEAs. If the State does not have such an equalization plan, considering impact aid payments as local resources in this way will result in reducing or terminating payments. OE field representatives are required to review annually educational aid programs for each State in which LEAs apply for Public Law 81-874 funds to determine whether the State is considering impact aid funds as local resources. We found two States where this occurred.

One State appeared to have been violating the law's supplant provision because two of its four educational aid programs reduced State aid to those LEAs receiving SAFA funds. The State provides financial assistance to LEAs through (1) a foundation aid program, (2) an incentive program, (3) a program using flat grants for such things as special and vocational education programs, and (4) a supplemental minimum-guarantee program designed to insure that each LEA has sufficient revenue to provide a minimum per-pupil expenditure set by the State.

The majority of the financial assistance is distributed under the foundation aid program, which did not violate the law's supplant provisions, nor did the grants for special and vocational education programs.

The State, in computing its supplemental program aid for individual LEAs, included SAFA payments as local revenue which reduced the aid to qualifying LEAs by the amount of such payments. The State has operated this program since school year 1971-72.

To illustrate the effect of this practice, one LEA which received both State supplemental and SAFA funds would have been entitled to $8,772 more from the State in fiscal year 1972 had SAFA funds not been included as local revenue. The LEA had $249,963 in local, State, and Federal revenue, or about $569 for each of the 439 pupils in ADA. Because the State's minimum guarantee was $575 per pupil, the LEA received $2,463 under the supplemental program, about $6 per pupil. If the LEA had not been required to include SAFA funds as local revenue, it would have been entitled to $11,234, about $31 per pupil.

We estimated the amounts by which State entitlements and payments to LEAs under the State minimum guarantee program would have been increased if SAFA funds had not been considered as local revenue in fiscal years 1972 and 1973. Our estimate is somewhat understated because we did not identify all LEAs which might have qualified for these program funds had SAFA funds not been included as local revenue. The following table shows the estimated increased State aid the

LEAs would have received if SAFA funds had not been included as local revenue:

			Increase in State minimum guarantee	
Fiscal year	Number of LEAs	SAFA receipts	Entitlements	Payments
1972	22	$ 280,851	$ 280,851	$280,851
1973	31	1,426,736	1,426,736	78,180

In fiscal year 1973 the State did not appropriate enough funds to reimburse LEAs for their full entitlements under the State's program. Consequently, the State prorated the funds available to eligible LEAs. The $78,180 increase shown above is our estimate of the increase in prorated funds that LEAs would have received from State appropriated funds had the State not considered the SAFA funds as local revenues.

During our review we brought this matter to the attention of OE program officials. On February 23, 1976, they said they would look into it and take appropriate corrective action once implementation of the 1974 Education Amendments is completed.

Another State also appeared to have been violating the supplant provision of Public Law 81-874. This State had several formulas for distributing State aid. The primary formula, under which most State funds were distributed, did not consider SAFA payments, but a supplementary formula did. Although the State had been using the supplementary formula since fiscal year 1971, OE was not aware of the violation until December 1973.

OE obligated about $40.4 million in Public Law 81-874 funds to the LEAs in this State for fiscal years 1971-73 and paid out all but $530,000 before learning of the possible violation. OE was withholding this amount at the time of our fieldwork pending the disposition of issues raised in an LEA's litigation with the State. The LEA was suing to obtain State aid funds withheld because the State considered impact aid funds in allocating State aid funds.

Public Law 81-874 was amended in fiscal year 1974 to grant a 1-year waiver of the law's supplant provision to all States which adopted a program for equalizing educational revenue available to LEAs after June 30, 1972. OE concluded that this State was ineligible for the waiver in fiscal years

1971-73, but was eligible in fiscal year 1974 and thus will make payments to LEAs claiming assistance for that year.

CONCLUSIONS

Nearly all the LEAs claimed either more or less than the eligible number of pupils. In total these LEAs overclaimed a net of $578,224--slightly less than 1 percent of the total assistance. Although OE caught many errors in reviewing the LEAs' claims, others resulted in net overpayments of $212,133.

We identified several areas in which OE regulations and instructions for determining eligibility need to be clarified. They are not specific for determining what constitutes being employed on Federal property; thus payments made do not reflect an attempt to reimburse LEAs because of the tax-exempt status of the property. The parent-pupil survey form should provide documentation to determine that a child with a civilian parent employed or working on Federal property actually resides with the federally connected parent. OE's allowing claims for children with a uniformed services parent without providing adequate documentation to determine if the child is a dependent of that parent does not seem to be consistent with the intent of the impact aid program. Because all States did not compute ADA in the same way and some LEAs reported total ADA that must be considered an estimate, OE should adopt an alternative procedure to help insure that ADA estimates are made on the same basis.

Some LEAs received Federal payments from both impact aid funds and other Federal sources for the same Federal properties because of the properties' tax-exempt status.

Two States appeared to have been using section 3 funds to supplant State funds violating Public Law 81-874. Closer review of State aid allocation formulas should be emphasized.

RECOMMENDATIONS

We recommend that the Secretary of HEW direct OE to strengthen administrative controls over the impact aid program by:

--Clarifying the requirements that a parent must meet to be considered employed on Federal property so that payments to LEAs will better relate to the property tax-exempt status.

--Requiring adequate documentation from LEAs to determine whether a child with a civilian parent employed or working on Federal property actually resides with the federally connected parent.

--Requiring adequate documentation from LEAs to determine whether a child is a dependent of a uniformed services parent.

--Adopting an alternative procedure for States and LEAs that have different procedures for computing ADA to help insure that ADA estimates are made on the same basis.

--Reviewing State aid allocation formulas relative to the law's supplant provision.

AGENCY COMMENTS AND OUR EVALUATION

HEW commented on matters discussed in this report in a July 23, 1976, letter. (See app. III.) It concurred with the need to clarify the term "employed on Federal property" and will rewrite instructions which have been issued for use by LEAs and program staff to make them more definitive.

As for determining whether a child of a civilian parent employed or working on Federal property actually resides with that parent, HEW said that the instructions in this area would be strengthened but that the situation could be appreciably improved only through extensive field reviews with a larger regional staff.

HEW said that the statute expresses no requirement of dependency for a child of a uniformed services parent, and that it is thus not feasible to seek such information. We do not fully agree. As discussed on page 12 of this report, the legislative history of Public Law 81-874 suggests that to be eligible the child should be a dependent of a uniformed services parent. As for information on dependency, it could be obtained by a question on the parent-pupil survey form asking whether or not the child is a dependent of the parent on active duty in the uniformed services.

HEW agreed that using an alternative procedure for computing ADA for States and LEAs would simplify administration of the law and could lessen ADA computational errors. HEW said it will study ways to recommend modifying the law to permit the use of an alternative procedure.

As for reviews of State aid reallocation formulas relative to the supplant provision of the law, HEW agreed with the importance of these reviews and said that with the passage of Public Law 93-380, indepth examinations of State aid programs will occur.

General comments

In addition, HEW provided several general comments concerning the matters discussed in this chapter. These comments and our response are discussed individually as follows.

HEW said that some of the procedures and conditions in effect during our review of Public Law 81-874 in fiscal year 1973 are no longer the same due to the complex changes made by Public Law 93-380, which was approved August 21, 1974. It said that these changes with few exceptions became effective in fiscal year 1976.

Although some procedures have changed and we have acknowledged this on page 1 of this report, we believe our discussions on OE's procedures for determining eligibility and its instructions and procedures for determining payment rates are still pertinent to the program.

Regarding our statement that OE's regulations and instructions for determining eligibility need to be clarified and better enforced, HEW indicated it believes the instructions are in accord with the intent of the law. HEW said that increased manpower in its regional offices would help in preventing LEAs from overclaiming and underclaiming numbers of federally connected pupils in their applications.

As indicated by our findings on page 8, we believe the instructions and regulations need to be clarified. Clear and understandable instructions and regulations are essential for the management of the program regardless of the availability of manpower.

HEW agreed with our discussion on page 8 that the terms "working on" and "employed on" are used synonymously. It said the understanding of many applicants and regional program personnel has been that they should consider a pupil an eligible federally-connected pupil if the parent is working on or employed on Federal property on the date the LEA takes

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its parent-pupil survey. It said the basis for adopting the "one-count system" is that it provides an administrative tool in order to determine the number of children in ADA with parents employed on Federal property on one specific date in the school year regardless of the number of parents who may have been working on or will be working on this same Federal property for the balance of the year.

We believe that there is a difference between being employed on and working on Federal property, as indicated on page 9 of this report. Also, we believe that good management would dictate that an adequate definition of being "employed on Federal property" be developed, regardless of the administrative tool used, so that payments to LEAs will better relate to the property tax-exempt status.

Regarding LEA instructions for seeking eligible pupils, as noted on page 10 of this report, HEW said an OE review of the facts indicated that:

--While a school district did in fact instruct teachers to count as federally-connected pupils whose parents may drive a truck through a military base on the date of the survey, a review of the records did not uncover that any such pupils were claimed; the school district has agreed to delete such instructions in the future.

--The records for the school district alleged to have suggested that a music teacher arrange to be working at a school located on Federal property on the survey date did not indicate that any such children of a music teacher or any other questionable children were claimed.

Regarding our finding that a school district claimed children of loggers without documentation showing that the parents were working more than 50 percent of their time on Federal property, HEW said steps have been taken to assure that this school district will maintain proper records hereafter. It said the school district obtained the proper certification on its 1974-75 application; its survey form for the 1975-76 school year has a special certification pertinent to lumbering activities.

Our purpose in including in the report the first two examples above was to show how LEAs have interpreted the terms "employed on" and/or "working on" Federal property and show that pupils could have been claimed. We are pleased that corrective action has been taken on these matters.

CHAPTER 3

SAFA PAYMENT RATES

The Office of Education instructions for selecting comparable local educational agencies to determine the School Assistance in Federally Affected Areas payment rates provide no assurance that the LEAs selected are in fact comparable. Furthermore, OE procedures for approving payment rates are not consistent with its instructions.

Although LEA contribution rate data is the basis for selecting comparable LEAs to determine SAFA payment rates, OE does not periodically review the revenue sources reported as local. Thus, OE has no assurance that rates calculated using this data are reasonable and consistent among States.

OE allows some applicants to select as comparables other applicants which have a large percentage of federally connected children in their school enrollments. This practice appears to be inconsistent with the legislative objective of removing the influence of federally connected children on per pupil cost calculations in selecting comparables, thus estimating what costs would have been in the LEA if there were no Federal presence.

TYPES OF PAYMENT RATES

Impact aid is intended to compensate the LEA because federally connected children increase school enrollment without proportionately increasing the local tax base.

The LEA's actual educational costs are not used for determining payment rates because federally connected children influence the revenues available and the amount which the LEA can spend on education. To avoid this problem, the law provides that payment rates be based on the amounts private property owners in generally comparable LEAs pay toward the cost of educating children. The law also establishes a minimum payment rate which is equal to the higher of either one-half the national or one-half the State average expenditure per pupil. However, in no case may the minimum rate exceed the State average expenditure per pupil. The amount of aid provided to an LEA may not be based on a rate lower than the applicable minimum rate.

OE, after consulting with the SEAs and LEAs, determines which LEAs are in its judgment generally comparable to the applicant.

The June 20, 1950, House Report No. 2287, which accompanied the original legislation, contains the following statement about comparable LEAs:

> "The determination as to the amount of payment to be made with respect to each child depends in part, as has been said, upon a determination by the Commissioner of Education as to which school districts within the State are most nearly comparable to the school district of the educational agency to be compensated. In the last analysis, a school district's current expenditures are determined by the amount of money it has available. In a school district providing education to large numbers of children connected with Federal property, the current expenditures will be affected by the fact that the Federal Government is not contributing its proper share of local school revenues. Hence, in arriving at a sum which approximates the cost of providing education to the Federal children in question, it would not be reasonable to consider merely current expenditures met from local revenues of the district in question.
>
> "Among other things the Commissioner would first consider similarity of classification under State law, and then other relevant factors, such as number and kind of school population, tax resources, tax effort, costs of school maintenance and operation, and the like."

HEW regulations provide that SAFA payment rates be established, subject to the minimum rates, by either

--grouping all LEAs within a State into generally comparable groups and basing each applicant's payment on its group's average expenditure per pupil from local revenues or

--individually selecting comparable LEAs for each applicant and basing each applicant's payment rate on the comparable LEAs' average expenditure per pupil from local revenues.

The comparability criteria are the same in both procedures; both require OE to compute payment rates using data compiled by the State educational agency or LEA on expenditures paid from local revenues of comparable LEAs. This payment rate equals the average expenditure per pupil in average daily attendance paid from local revenues--hereafter referred to as the local contribution rate--of the LEAs which are comparable to the applicant.

The major distinctions between the two procedures are the number of comparable LEAs used to determine the payment rate and the input an individual LEA has in determining the rate. In most States the group procedure compares an applicant to 50 or more other LEAs. The applicant, however, once placed in a group of comparable LEAs by the State, must claim the group average rate or the minimim rate alternative. In contrast, the individually selected procedure usually compares an applicant to at least five other LEAs. This procedure generally gives the applicant more latitude in determining the payment rate because the applicant either itself or in consultation with the SEA selects the five LEAs to which it is compared.

Each SEA selects the procedure to be used in its State and all LEAs must then use that procedure in arriving at a payment rate to be submitted to OE for approval. If in using the established procedure an individual LEA's rate is less than the applicable minimum rate, the LEA receives the minimum rate. In some States educational costs are such that most LEAs claim a minimum rate, and thus neither procedure is used. Of the 17 States in our review, 4 used the grouping procedure, 8 used the individually selected procedure, and 5 used minimum rates exclusively.

OE SHOULD REVIEW THE DATA USED TO COMPUTE PAYMENT RATES

Although local contribution rate data submitted to OE is the basis for selecting comparable LEAs to determine SAFA payment rates, OE does not periodically review the revenue which LEAs and SEAs report to determine if it is received from State or local sources. What constitutes local revenue is subject to interpretation because LEAs receive revenue from many sources under a wide array of Federal, State, and local statutes. Such interpretations can affect the amount of SAFA funds received.

The local contribution rate is an important factor in computing SAFA payment rates. OE allows LEAs to determine their rates using the following formula:

$$\text{Local contribution rate} = \left(\text{Total current expenditures} \times \frac{\text{Local revenues}}{\text{Total revenues}}\right) \div \text{Total ADA}$$

OE approves payment rates using LEA contribution rate data, but OE officials said they do not periodically review this data's accuracy.

HEW defines local revenue as tax funds from real estate or other sources within the LEA boundary which is available for its use. Local revenues include (1) funds collected by another governmental unit as an agent for the LEA and (2) funds collected by another governmental unit but shared with the LEA in proportion to the amount collected from within the LEA. According to HEW's definition, local revenues are distinguished from State revenues in that the latter are distributed to LEAs in amounts often disproportionate to the amounts actually collected from within the LEAs' boundaries.

One State's definition of local revenue, as indicated by the data submitted to OE, included more revenue sources than that derived by strictly applying HEW's definition. The OE official responsible for reviewing the data said he generally accepted the State's interpretation of the items constituting local revenue and verified only that local revenue reported by applicants was consistent with that reported to the State.

SEA officials in this State categorized 12 different sources of revenue as local in preparing the data submitted to OE for calculating SAFA payment rates. Five of the sources were classified by the State as "State-dedicated revenues," and the other seven sources were classified as "revenues from legislative appropriations."

The State-dedicated revenues, such as automobile, boat, and mobile home license fees, appear to be State revenues according to HEW's definition that the State collects the funds and distributes them to the LEAs in different proportions from those collected within the LEAs' boundaries. These revenues comprised about 18 percent of the revenues reported to OE for 40 comparable LEAs for fiscal year 1973. We did not perform this review in all States visited, but SAFA payments to LEAs in this State would have been reduced by about $138,000 had these revenues not been classified as local.

OE INSTRUCTIONS NOT ADEQUATE FOR DETERMINING COMPARABLE LEAS

OE instructions contain criteria for selecting comparable LEAs which provide for legal classification, grade levels, size as measured by cost per pupil in ADA, geographical size, population density, industrialization, current revenues, aggregate property values, percent of pupils transported, and other relevent factors.

OE instructions for determining which LEAs within a State are generally comparable to the applicant are inadequate, and its procedures for approving the SAFA payment rates are not consistent with its instructions. A discussion of both procedures for determining comparable LEAs and the problems associated with them follows.

Procedure involving individually selected comparable LEAs

OE instructions stipulate that for LEAs using this procedure at least five generally comparable LEAs within the State are to be selected in accordance with the following criteria.

1. Legal classification.
2. Total number of pupils in ADA.
3. Cost per pupil in ADA:
   a. Paid from local sources of funds only.
   b. Paid from all sources of funds.
4. Grade levels maintained.
5. Percent of pupils transported.
6. Pupil-teacher ratios.
7. Assessed property valuation per pupil in ADA.
8. Ratio of assessed valuation to total valuation of property.
9. Tax rate levied on real property for school purposes:
   a. For current expenses only.
   b. For current expenses, debt service, and capital outlay.

10. Curriculum offered.

11. Teacher salary schedule.

12. Economic characteristics, such as industrial, residential, or agricultural.

Information on the first nine criteria must be submitted to OE for each LEA selected as comparable. OE instructions require SEAs to compile the information on these criteria using 2-year-old data because some of the information cannot be gathered on a more timely basis. Although the instructions also request applicants to consider the last three criteria, neither the SEAs nor the LEAs submit information on these because they are not included on OE's application form.

OE instructions further stipulate that LEAs should preferably not select other SAFA applicants as comparables. If other SAFA applicants are selected, the LEA must explain and describe the extent of the Federal impact in the comparable LEAs and compare it with its own.

OE has not defined tolerances that applicants can use in selecting comparables which are dissimilar in several criteria or which do not otherwise meet OE requirements for comparability. Although OE instructions state that cost per pupil is the primary criterion for determining comparability, neither the regulations nor the instructions specify what weight should be given to the remaining criteria. Consequently, there is no consistent or systematic procedure for selecting comparables or for OE to use in approving selections.

Most of the LEAs we reviewed that individually selected comparable LEAs did not attempt to find those LEAs which were generally comparable in all criteria specified in OE instructions, nor did OE. OE permitted some LEAs to choose other SAFA applicants as comparables without the required explanation and comparison of Federal impact.

The method of selecting individually comparable LEAs varied in the eight States we visited which used this procedure. In four States the LEAs selected their comparables from a list prepared by the SEA and submitted their selections to OE through the SEA. In the other four, the selections were made by the SEAs, sometimes with the LEAs' concurrence. Generally, the applicant LEA's local contribution rate was the principal criterion used in making selections. Typically, five LEAs were selected that had combined average local contribution rates close to the applicant's. In some States secondary consideration was given to finding LEAs with similar ADA and grade structure. In only one State were each of the nine criteria applied in an attempt to find five LEAs which most closely compared to the applicant.

In six of the eight States, the data the SEAs prepared and submitted to OE was incomplete and excluded information on one or more of the nine criteria. OE officials said that because they generally did not use all the data submitted they did not rigorously enforce this requirement. Furthermore, although three of the SEAs reported data on all LEAs in their States, another reported data on only 9 percent of its LEAs and two reported data on less than 52 percent of their LEAs, with no explanation to OE of which LEAs were excluded or why.

OE does not require that data be submitted on all LEAs in each State even though OE officials acknowledged that such data would be necessary for them to determine whether other LEAs in the State were more comparable to an applicant than those selected.

OE procedures for approving comparable LEAs

OE procedures for approving SAFA payment rates derived using individually selected comparable LEAs are not consistent with its instructions.

According to OE officials, developing procedures for selecting comparable LEAs by all or even most OE criteria would be difficult because a major difference in any one criterion could greatly affect comparability. They said that because routine procedures for applying the criteria cannot be easily developed, a detailed analysis of each applicant using the individually selected comparable LEA method would be necessary to insure that they are being reasonably applied. They said that such analyses are not made because of lack of staff.

Thus, rather than reviewing the comparability of individually selected LEAs, OE reviews only the payment rate resulting from the applicant's selection of comparables. Although not mentioned in its instructions for selecting comparable LEAs, OE compares these payment rates to the applicant's local contribution rate for nonfederally connected children. OE computes the local contribution rate for nonfederally connected children by dividing an applicant's local revenues by its ADA minus (1) the ADA of all children living with a parent both employed and residing on Federal property (LEAs are presumed to receive no local revenue for educating these children) and (2) one-half the ADA of children living with a parent either employed or living on Federal property (LEAs are presumed to receive only 50 percent of normal local revenues for educating these children).

This method of adjusting ADA is consistent with the major premise underlying section 3 of Public Law 81-874, as stated in the 1950 House Report No. 2287, which accompanied the original legislation:

> "* * * Approximately half of the real-property tax required to meet the local share of the cost of educating a child is derived from taxation on residential property * * * and half from taxation on the factories and offices where their parents work. The local educational agencies derive no such revenue in the case of a child who lives on tax-exempt Federal property and whose parent is employed on such property. * * * Where a child lives on non-Federal property but the child's parent is employed on tax-exempt Federal property, the local educational agency will derive on the average half as much in revenue as it would in the case of other children.* * *"

OE officials told us that they could not use local contribution rates for nonfederally connected children for all LEAs because some receive substantial local revenues even though most of the children enrolled in their schools are federally connected. OE uses an LEA's local contribution rate for nonfederally connected children as its only measure of the amount the LEA should be paid per federally connected child under individually selected LEAs. As a guideline, OE will usually approve a local contribution rate for federally connected children if it is not more than $50 greater than the applicant's local contribution rate for nonfederally connected children, regardless of the applicant's selection of comparable LEAs. However, OE has not set a lower limit on this guideline and will approve an applicant's selection of comparables even if the resulting payment rate is well below the applicant's local contribution rate for nonfederally connected children.

Although the non-Federal local contribution rate is the major criterion OE uses to measure the reasonableness of, and to approve the payment rate resulting from, an applicant's selection of comparable LEAs, this criterion is not stated in OE's regulations or instructions. In fact, OE's instructions stipulate that all children, not just nonfederally connected children, be considered in determining the local contribution rate. Few of the LEAs we reviewed used this criterion in selecting comparables.

One LEA, in requesting a payment rate in accordance with OE's instructions, was told, after its request had been disapproved several times, that its payment rate must approximate its non-Federal local contribution rate. In some States LEAs, because of SEA-designated procedures for selecting comparables, generally chose comparables which resulted in rates well below the amount permissible if they had used the local contribution rate for nonfederally connected children. In these States the LEAs which enrolled the highest percentage of federally connected children generally received the lowest payment rates in relation to their non-Federal local contribution rates. In other States, some LEAs claimed and were reimbursed at rates above the maximum OE usually allows.

Results of using individually selected comparable LEAs to determine SAFA payment rates

Using individually selected comparable LEAs to determine SAFA payment rates produced widely varying results in the LEAs we reviewed. The criterion OE uses in approving rates--local contribution rate for nonfederally connected children--is designed to provide aid to an LEA for the approximate amount it is willing to pay to educate its nonfederally connected children. However, because OE did not consistently apply this criterion, some payment rates were considerably above the local contribution rates for nonfederally connected children. Moreover, because OE does not have a lower limit on its criterion, some LEA payment rates were considerably below local contribution rates for nonfederally connected children.

Although OE usually will not approve a payment rate if it is greater than $50 above the applicant's local contribution rate for nonfederally connected children, five LEAs received such rates. Four received payment rates more than $100 above their local contribution rates. One LEA, for example, requested a $1,075 payment rate per pupil based on its selection of five comparable LEAs, which OE disapproved because it was more than $600 above the LEA's local contribution rate for nonfederally connected children. The selection of comparable LEAs was changed, and the payment rate approved was $895--still about $421 above the local contribution rate for nonfederally connected children.

In most cases, however, LEAs were required to revise their selection of comparable LEAs to obtain a rate within OE's limitation. For example, one LEA requested a $642 payment rate--based on five comparable LEAs--which OE disapproved because it was about $108 above the LEA's local contribution rate for nonfederally connected children. A revised request for a $612 payment rate--about $78 above the local contribution rate--also was disapproved. The LEA later revised its selection of comparable LEAs and requested a $564 payment rate--about $30 above the local rate--which was approved.

Because OE has not established a lower limit for its criterion for a local contribution rate and generally has not told the LEAs to use this rate as a criterion, some LEAs requested rates considerably below their local rates. Nineteen LEAs requested payment rates for fiscal year 1973 below their local contribution rates for nonfederally connected children. OE approved their requested rates even though 14 LEAs used payment rates ranging from $53 to $792 below their local contribution rates for nonfederally connected children.

In addition to the inconsistencies discussed above, OE prefers, but does not require, applicants to select comparable LEAs that are not also SAFA applicants. Those LEAs we reviewed that selected as comparables other SAFA applicants did not explain and describe the extent of the Federal impact in the comparable LEAs and compare it with its own, as stipulated in OE's instructions.

As noted previously, the comparable LEA method of determining rates was established to eliminate the influence of federally connected children on locally financed per pupil expenditures. Therefore, the LEAs' total enrollments approved by OE as comparable to an applicant's should not have a large percentage of federally connected pupils. Otherwise the legislative objective of the rate determining procedure would not be met in that the effect of federally connected children on per pupil cost calculations would still be present.

In one State the SEA sent fiscal year 1973 applicants a list of 12 LEAs to be used in selecting comparables. There were 136 LEAs in the State, 65 of which did not receive SAFA assistance under section 3. Of the 12 LEAs on the list, 11 were SAFA applicants and 8 of these 11 applicants had from 27 to 41 percent of their pupils federally connected. Eight of the nine applicants in the State claiming a comparable rate selected at least one of the eight LEAs as comparable and three applicants restricted their selections to only these LEAs.

Grouping procedure for selecting comparable LEAs

OE regulations on the LEA grouping procedure of selecting comparable LEAs state that the SEA should group the LEAs according to legal classification or some other OE-approved factor. SEAs are required to further divide the groups if additional division would result in greater comparability. These further divisions are to be based on grade level, size as measured by total ADA, geographical area, density of population, industrialization, current revenues, aggregate value of property, and other relevant factors. OE instructions neither define acceptable tolerances to use in selecting comparables nor specify what weight should be given to the various factors and therefore are inadequate for determining whether LEAs in a group are comparable.

Methods of grouping comparable LEAs varied

Of the four States we reviewed which used the grouping method, two used legal classification as the sole basis for grouping, one used only ADA, and one used legal classification in combination with other factors. Following is a description of the procedures used in fiscal year 1973.

State A--311 LEAs were in one group based on their legal classification as unified school districts.

State B--1,157 LEAs were divided into 12 groups according to ADA. LEAs in nine of these groups claimed the minimum rate, one-half the national average expenditure per pupil.

State C--1,138 LEAs were placed into one of five groups based on legal classification--elementary school districts, high school districts, unified school districts, community colleges, and county superintendent schools (special-purpose schools administrated by superintendents).

State D--281 LEAs were placed into one of four groups--all elementary school districts, except those in two cities; elementary school districts in two cities; all high school districts, except those in two cities; and high school districts in the two cities.

[illegible] is responsible for determining whether LEAs placed in such groups are generally comparable but has no record of how or on what basis these grouping methods were originally established and approved. Furthermore, OE officials did not know when the methods were last reviewed for reasonableness. SEA officials responsible for submitting group data to OE were unaware of any review since the methods were adopted.

CONCLUSIONS

Although local contribution data is the basis for computing SAFA payment rates, OE does not periodically review the revenue which LEAs and SEAs report to determine if it is received from State or local sources. Thus, OE has no assurance that the rates calculated are reasonable.

OE instructions for selecting comparable LEAs to determine SAFA payment rates provide no assurance that the LEAs selected are, in fact, comparable. While the cost per pupil is a critical criterion for determining comparability, neither the regulations nor the instructions specify what weight should be given to other criteria. Moreover, OE has not established ranges for each criterion to assist SEAs or LEAs in determining comparability. Both of these factors are needed, regardless of the comparable LEA procedure used to make selection of comparable LEAs consistent.

OE procedures for approving rates from individually selected comparable LEAs are not consistent with its instructions for selecting comparable LEAs. It generally does not review the comparable LEAs to determine whether they were selected in a manner consistent with its criteria but compares the resulting payment rates to the applicants' local contribution rates for nonfederally connected pupils. Because the local contribution rate for nonfederally connected pupils is not a criterion stipulated in OE instructions or regulations, few of the LEAs used it in selecting comparable LEAs.

The criteria which LEAs in some States used were such that LEAs tended to select comparables in a manner resulting in payment rates well below their local contribution rates for non-Federal pupils. Although OE collects much data on other criteria which LEAs and SEAs should consider in selecting comparables, it uses only the local contribution rate for nonfederally connected pupils in determining comparability and is, therefore, not complying with its own instructions and regulations. Using the local contribution rate for nonfederally connected pupils as a sole criterion for determining comparability of LEAs does not accomplish the objective of this procedure.

In addition, OE allowed some LEAs to select as comparables other SAFA applicants without providing the required explanation and comparison of Federal impact. Because the comparable LEA procedures are intended to remove the influence of federally connected children from per pupil cost calculations, OE should require that applicants select as comparables only those LEAs that are not receiving SAFA aid or should determine an alternative procedure to remove the influence of federally connected children from per pupil cost calculations.

OE has not periodically reviewed the States' grouping procedure for selecting comparable LEAs to insure that LEAs in each State are grouped with generally comparable LEAs. Because the manner of grouping influences SAFA payment rates, such reviews are necessary to insure that payment rates are based on comparable LEAs.

RECOMMENDATIONS

We recommend that the Secretary of HEW direct OE to:

--Review the revenue which LEAs and SEAs report to determine if it is received from State or local sources.

--Specify the weight that should be given to its published criteria and establish ranges for each criterion to assist in compiling the data necessary for selecting comparable LEAs.

--Develop procedures for approving Federal payment rates based on comparable LEAs which are consistent with its instructions for selecting such LEAs.

--Require that applicants use as comparables only those LEAs that do not receive SAFA aid or determine an alternative procedure to remove the influence of federally connected children from per pupil cost calculations.

AGENCY COMMENTS AND OUR EVALUATION

HEW concurred with our recommendation to review revenue which LEAs and SEAs report to determine if it is received from State or local sources, but indicated that manpower in its regional offices cannot fulfill its present workload, which includes indepth analysis of revenues.

As for specifying the weight that should be given to its published criteria and establishing ranges for each criterion, HEW indicated that it recognized the need for study of this problem, and if the use of a weighting system is deemed advisable it will change existing regulations.

We do not believe that HEW's comments are responsive to our recommendation concerning the development of procedures for approving Federal payment rates based on comparable LEAs which are consistent with its instructions for selecting such LEAs. HEW said that present procedures provide for a review of the criteria for selecting comparable LEAs. As indicated on page 33, OE instructions to LEAs for arriving at a comparable payment rate are different from the criteria it uses to approve such a rate. On pages 34-35 we state that although the non-rederal local contribution rate is the major criterion OE uses (1) to measure the reasonableness of and (2) to approve the payment rate resulting from an applicant's selection of comparable LEAS, this criterion is not stated in OE's regulations or instructions. In fact, OE's instructions stipulate that all children, not just nonfederally connected children, be considered in determining the local contribution rate.

HEW indicated that to the extent possible it requires applicants to use as comparables only those LEAs that do not receive SAFA aid. It said that in some States it is difficult to select comparable LEAs which are not federally affected to some degree. Regardless, we believe that an alternative procedure should be developed to remove the influence of federally connected children from per pupil cost calculations.

CHAPTER 4

ANALYSIS OF ECONOMIC IMPACT OF FEDERALLY CONNECTED CHILDREN ON LEAS

Attempts have been made in the past by the Department of Health, Education, and Welfare to measure the economic impact of federally connected school children on local educational agencies. The Congress from time to time has considered various alternative eligibility and payment provisions to reflect different economic considerations of this effect. However, no objective measure of the economic burden has ever been set forth.

To respond to the congressional request for an analysis of the economic impact of federally connected children on LEAs, we calculated the tax increase that would be needed if LEAs did not receive payments under the impact aid program. This could be considered an indirect measure of the burden that federally connected children impose on LEAs. We made statistical analyses of the impact of federally connected children on 1,671 LEAs in 16 States for fiscal year 1973 and found that without impact aid entitlements:

--48 percent of the 1,671 LEAs would need property tax increases of less than 5 percent; another 18 percent of the LEAs would need property tax increases of 5 to 10 percent; and, at the upper extreme, 15 percent of the LEAs would need property tax increases of 25 percent or more.

--An increase of less than $25 in annual local property taxes on a home with a market value of $40,000 would result for 48 percent of the LEAs; an increase of $25 to $50 would result for 25 percent of the LEAs; and, at the upper extreme, an increase of $100 or more would result for 15 percent of the LEAs.

By applying alternative eligibility and payment provisions to the program, total impact aid entitlements could have been reduced between $68 million and $351 million, using fiscal year 1973 as a basis.

ANALYSES OF INDIRECT MEASURES OF BURDEN

These analyses were based on information in claims totaling $188 million, made by the 1,671 LEAs in 16 States for aid under title I, sections 2 and 3(a) and 3(b) of Public Law 81-874 for fiscal year 1973. Section 2 allows for payments to LEAs that have had large amounts of property removed from the tax rolls through purchase by the Federal Government.

Our analysis does not consider the effects on the program of the provisions of the Education Amendments of 1974, effective in fiscal year 1976, which provide payments for students living in low-rent public housing and handicapped students.

LEAs using the individually selected comparable LEA procedure, as described on page 31, must report on nine criteria for all LEAs in that State. The State also sends this information to OE headquarters for verification of the LEA's selection. For both sections of the law, this information is to include LEA property valuations and tax rates. Because the LEAs we analyzed were not selected on a scientific basis, our review is presented as a case study of 16 States and is not necessarily representative of the entire Nation.

For each LEA we determined how much taxes would have to be increased to replace all or a part of their 1973 entitlements. We compared the percentage of impaction (i.e., percent of federally connected ADA) for the 1,671 LEAs to the percentage of change in taxes that would be necessary because of loss of aid. Our analysis involved:

- --Calculation of change in overall LEA tax rate needed to replace impact aid funds withdrawn. (Formula: Change in tax rates = aid withdrawn ÷ assessed property value.)
- --Application of the change calculated above to a home with a market value of $40,000. (Formula: Change in taxes = $40,000 X assessment rate X change in tax rate.)
- --Calculation of percentage change in taxes by comparing calculated change in taxes to original taxes. (Formula: Percent change in taxes = ($40,000 X assessment rate X change in tax rate) ÷ ($40,000 X assessment rate X original tax rate).)

Our analyses were based on school year 1971-72 valuations for taxable property since this was the latest information available; historical trends in property values indicate that these values were probably much lower than current valuations. We used 100 percent of the impact aid entitlements in our analyses, which exceeded actual impact aid payments over the past few years by 25 to 30 percent, because appropriations have not been adequate to pay full entitlements. The use of these two factors tends to make our results a conservative estimate of the effect that loss of aid would have because they yield higher estimates of tax changes than would actually be necessary.

We analyzed the impact aid program to determine the effects of changes in eligibility and payment provisions. We considered all 4,581 LEAs in the program for fiscal year 1973. In addition, we analyzed data from the 16 States to determine the relationship between increasing percentages of federally connected children and taxable property values and how such a relationship might be reflected in such school financing indicators as tax rates applied to property values to raise revenue for schools, per pupil expenditures, and ratios of pupils to teachers. Correlation analysis was used to test for relationships between percentages of federally connected students and the other factors listed. Details are given in appendix II.

EFFECT OF WITHDRAWAL OF IMPACT AID FUNDS

Without impact aid entitlements, 48 percent of the 1,671 LEAs analyzed would need property tax increases of less than 5 percent and 18 percent would need tax increases from 5 to 10 percent. Without 3(b) aid only, smaller increases in property taxes would result. An increase of less than $50 in local property taxes on a home with a market value of $40,000 would result for 73 percent of the LEAs without their total entitlements and for 81 percent without their 3(b) entitlements.

Loss of all impact aid entitlements

We compared the percent of impaction (percent of federally connected children to total LEA ADA) to the percent of increase in taxes that would result from loss of all aid. The following tabulation shows the number of LEAs that would be affected and the increases in local property tax rates that would be needed to replace lost aid.

Percent of impaction	0 to 4.99	5 to 9.99	10 to 14.99	15 to 19.99	20 to 24.99	25 or more	Total number of LEAs
0 to 2.99	216	18	3	2	-	3	242
3 to 5.99	415	61	16	2	1	2	497
6 to 9.99	147	109	32	13	6	15	322
10 to 24.99	24	115	90	44	32	69	374
25 or more	-	3	11	26	18	178	236
Number of LEAs affected	802	306	152	87	57	267	1,671
Percent affected	48	18	9	5	5	15	100

The results show that 66 percent of the LEAs analyzed would require tax increases of less than 10 percent to replace impact aid entitlements and 48 percent would require tax increases of less than 5 percent. Entitlements for 802 LEAs requiring less than a 5-percent increase in fiscal year 1973 totaled about $55 million, and entitlements for the 306 LEAs requiring a 5- to 10-percent tax increase totaled about $22 million. Based on full entitlements of about $188 million for the 1,671 LEAs analyzed, about 40 percent of the entitlements were provided for LEAs which would require an increase of less than 10 percent in taxes to replace entitlements.

Although most of the LEAs analyzed would require less than a 10-percent increase in local taxes, 267, or 15 percent, would require an increase of 25 percent or more. Two of the 267 LEAs would require percentage tax rate increases in the thousands. LEAs with more than 25 percent federally connected children accounted for about $75 million, or about 40 percent, of all entitlements for the 16 States analyzed.

Included in the entitlements was money provided under section 2 of the law. Although this type of aid accounted for only a small portion of the total impact aid going to the 1,671 LEAs ($1.3 million out of $188 million), many that receive it would require large tax increases (greater than 10 percent) to replace section 2 aid alone. Twenty-four of the 63 LEAs that had section 2 entitlements received no 3(a) or 3(b) aid, and some of these also would require more than a 10-percent increase in taxes to replace their aid. These LEAs, accordingly, would require larger tax increases than if only 3(a) and 3(b) entitlements were withdrawn. Because we were particularly interested in measuring the burden that 3(a) and 3(b) children represent, we screened out section 2 aid from the 1,671 LEAs and recalculated the tax changes.

Percent of impaction	0 to 4.99	5 to 9.99	10 to 14.99	15 to 19.99	20 to 24.99	25 or more	Total number of LEAs
0 to 2.99	207	10	1	-	-	-	218
3 to 5.99	419	60	16	1	-	1	497
6 to 9.99	148	110	32	14	4	14	322
10 to 24.99	24	116	91	44	32	67	374
25 or more	-	3	12	26	18	177	236
Number of LEAs affected	798	299	152	85	54	259	1,647
Percent affected	48	18	9	5	4	16	100

The 24 LEAs that received just section 2 aid no longer appear; the 39 others with some section 2 aid would require smaller tax increases, assuming that only 3(a) and 3(b) entitlements were withdrawn. There are 10 fewer LEAs with less than 6-percent impaction that would require greater than 10-percent tax increases. In our opinion, without 3(a) and 3(b) entitlements, LEAs with small impaction levels would not have a major tax increase.

We analyzed section 2 entitlements separately to gauge the effect their loss might have on property taxes. We assumed that just section 2 entitlements were withdrawn from the 63 LEAs that received them and calculated the change in taxes necessary to replace them. As before, the LEAs were grouped by percent of impaction and percent change in taxes.

Percent of impaction	0 to 4.99	5 to 9.99	10 to 14.99	15 to 19.99	20 to 24.99	25 or more	Total
0 to 2.99	14	7	2	2	-	3	28
3 to 5.99	3	1	2	-	-	-	6
6 to 9.99	4	1	1	2	1	-	9
10 to 24.99	2	2	4	1	2	-	11
25 or more	-	5	1	-	-	3	9
Number of LEAs affected	23	16	10	5	3	6	63
Percent affected	37	25	16	8	5	9	100

Sixty-two percent of the LEAs could make up for the withdrawal of section 2 entitlements with less than a 10-percent increase in taxes, and 9 percent of the LEAs would require an increase of 25 percent or more.

Loss of 3(b) entitlements

Because the Congress and the various Administrations have given very little consideration to eliminating aid for 3(a) children, we also tested the effect of the withdrawal of 3(b) entitlements only. Most LEAs could replace their lost entitlements with only a small increase in local property taxes. About 55 percent of the LEAs analyzed would require an increase of less than 5 percent in property taxes, and another 21 percent would require an increase of 5 to 10 percent. Eight percent of the LEAs would require a tax increase of 25 percent or more. Changes in taxes based solely on loss of 3(b) entitlements showed the following results.

Original percent of impaction (based on both 3(a) and 3(b) children)	0 to 4.99	5 to 9.99	10 to 14.99	15 to 19.99	20 to 24.99	25 or more	Total
0 to 2.99	208	10	-	-	-	-	218
3 to 5.99	431	51	14	1	-	-	497
6 to 9.99	167	108	36	4	1	6	322
10 to 24.99	71	149	63	36	20	35	374
25 or more	24	24	40	28	24	96	236
Number of LEAs affected	901	342	153	69	45	137	1,647
Percent affected	55	21	9	4	3	8	100

In the 1,243 LEAs requiring a property tax increase of less than 10 percent, the 3(b) aid alone accounted for about $75 million, about 55 percent, of the total entitlements for the LEAs analyzed. The 901 LEAs requiring less than a 5-percent increase accounted for about $52 million in 3(b) entitlements, about 28 percent of the total entitlements for all LEAs. Again, our estimates of the effect of loss of aid are conservative because we used 100 percent of the entitlements and school year 1971-72 property valuations in our analyses. Whenever funds appropriated for section 3 are not adequate to pay total entitlements, the funds are prorated. Prorations were necessary in fiscal years

1951 and 1955 and in every year since fiscal year 1967. However, even under conservative assumptions concerning loss of aid, our analysis showed that most LEAs would not have to impose major tax increases to replace 3(b) aid.

Dollar effects of loss of impact aid

Because not all States place the same stress on local property taxes to finance education, large percentage changes in taxes are not always large dollar changes and vice versa. Therefore, we calculated the dollar change in taxes on a home with a market value of $40,000 to determine whether stating the effects in this manner would show any major differences from the percentage change analyses. We calculated the annual increase in taxes assuming (1) all aid was lost, (2) sections 3(a) and 3(b) aid were lost but section 2 was retained, and (3) only 3(b) aid was lost.

Annual Dollar Increase in Taxes on $40,000 Home
Full Entitlement Removed

Percent of impaction	$0 to $24.99	$25 to $49.99	$50 to $74.99	$75 to $99.99	$100 or more	Total
0 to 2.99	233	6	1	-	2	242
3 to 5.99	370	113	9	2	3	497
6 to 9.99	138	138	31	13	2	322
10 to 24.99	57	142	73	41	61	374
25 or more	3	13	16	24	180	236
Number of LEAs affected	801	412	130	80	248	1,671
Percent affected	48	25	8	4	15	100

Annual Dollar Increase in Taxes on $40,000 Home
Only 3(a) and 3(b) Entitlements Removed

Percent of impaction	$0 to $24.99	$25 to $49.99	$50 to $74.99	$75 to $99.99	$100 or more	Total
0 to 2.99	215	3	-	-	-	218
3 to 5.99	374	112	9	2	-	497
6 to 9.99	140	137	33	10	2	322
10 to 24.99	58	143	75	42	56	374
25 or more	3	14	17	24	178	236
Number of LEAs affected	790	409	134	78	236	1,647
Percent affected	48	25	8	5	14	100

Annual Dollar Increase in Taxes on $40,000 Home 3(b) Entitlement Only Removed

Percent of impaction	$0 to $24.99	$25 to $49.99	$50 to $74.99	$75 to $99.99	$100 or more	Total
0 to 2.99	216	2	-	-	-	218
3 to 5.99	390	99	7	1	-	497
6 to 9.99	170	121	25	6	-	322
10 to 24.99	120	138	64	28	24	374
25 or more	36	35	38	35	92	236
Number of LEAs affected	932	395	134	70	116	1,647
Percent affected	57	24	8	4	7	100

An increase of less than $50 in annual local property taxes on a home with a market value of $40,000 would result for 73 percent of the LEAs without their total entitlements, and for 81 percent without their 3(b) entitlements. Our analyses showed that a great majority of LEAs--and especially those with low percentages of federally connected children--could replace their entitlements with only small monetary, as well as percentage, changes in local taxes.

Federal impact aid and prosperous LEAs

Throughout the years discussions about impact aid have included objections to the payment of large amounts to more prosperous LEAs, primarily in the suburban areas around Washington, D.C., which are among the most prosperous in the country in terms of per capita income. These LEAs have received large amounts of aid mainly because large numbers of 3(b) children reside in them.

We analyzed the LEAs in one State adjacent to Washington, D.C., and found that they have such high percentages of federally connected children that fairly large increases in taxes would be needed if their aid were withdrawn. For example, one LEA had the largest entitlement among all the LEAs included in our study--$18 million, or almost 10 percent of the total for all 16 States in our sample. Over 40 percent of the children in this LEA were federally connected. Without any impact aid, the annual increase in property taxes on a $40,000 home would be $153, an increase of over 25 percent. A 23-percent increase would be required to replace just 3(b) aid.

In this State several other suburban LEAs near Washington, D.C., also had large numbers of federally connected children and would require increases in taxes to replace their aid.

Percent of Increase in Taxes--Aid Withdrawn

LEA	Percent of impaction	Total entitlement	Percent of increase in taxes	3(b) entitlement	Percent of increase in taxes 3(b) only
A	27.57	$1,897,613	13.02	$1,897,613	13.02
B	32.47	2,803,155	9.56	2,625,746	8.94
C	31.28	606,510	17.73	606,510	17.73
D	34.43	260,006	11.27	260,006	11.27
E	18.76	1,344,003	8.42	1,335,831	8.36
F	24.67	549,731	10.43	549,731	10.43

The local taxes in these LEAs are generally higher than in other LEAs in the State, so impact aid evidently has not been used to maintain lower taxes.

EFFECT OF CHANGES TO PROGRAM ELIGIBILITY AND PAYMENT PROVISIONS

Previous HEW-financed studies on the effects of federally connected children on LEAs recommended changes in methods for determining eligibility for aid. In general, the proposed changes were intended to develop the concept of paying only for above-average Federal impaction in any LEA. These changes and several variations we developed assume different measures for what constitutes above-average impaction. Following is a presentation of the effect such changes would have on the program. Depending on the alternative provisions applied, the proposed changes could reduce total impact aid entitlements by $68 million to $351 million, using fiscal year 1973 as a basis.

The bases for the alternatives were eligibility characteristics of the SAFA program and various recommendations made by previous HEW-financed studies to more closely reflect sources of tax revenues.

The alternatives were:

1. Eliminate LEAs that are eligible solely on the basis of the number of students living in low-rent public housing but are not receiving aid for these students.

2. Reduce the payment rate for 3(b) students to 40 percent of the rate for 3(a) students.

3. Because LEAs generally are not eligible for impact aid funds unless the number of federally connected students exceeds 3 percent of ADA, make payments only for those children who exceed 3 percent of ADA (absorption).

4. In determining whether LEAs meet the 3-percent eligibility requirement, count 3(b) students at 50 percent and pay for them at 50 percent of the 3(a) rate.

5. In determining whether LEAs meet the 3-percent eligibility requirement, count 3(b) students at 40 percent and pay for them at 40 percent of the 3(a) rate.

6. Count 3(b) students at 50 percent in determining eligibility, pay for them at 50 percent of the 3(a) rate, and require the LEAs to absorb 3 percent of ADA before making any payments for federally connected children.

7. Count 3(b) students at 50 percent in determining eligibility, pay for them at 40 percent of the 3(a) rate, and require the LEAs to absorb 3 percent of ADA before making any payments for federally connected children.

Our analyses of the above alternatives for all 4,581 LEAs which received impact aid in fiscal year 1973 showed that total entitlements of $678.6 million for that year could have been reduced by $68 million to $351 million.

Reduction in Impact Aid Resulting from Application of Various Eligibility and Payment Alternatives

Alternative	Revised entitlement	Reduction
	(millions)	
1. Eliminate LEAs eligible because of low-rent public housing	$610.3	$ 68.3
2. Reduce 3(b) payment rate to 40 percent of 3(a) rate	584.3	94.3

	Alternative	Revised entitlement	Reduction
		(millions)	
3.	Pay for only that number of federally connected children exceeding 3 percent of ADA	$511.4	$167.2
4.	Count 3(b) students at 50 percent for eligibility purposes and pay for them at 50 percent of the 3(a) rate	467.9	210.7
5.	Count 3(b) students at 40 percent for eligibility purposes and pay for them at 40 percent of the 3(a) rate	390.0	287.7
6.	Count 3(b) students at 50 percent for eligibility purposes and require 3-percent absorption of ADA before making payments for federally connected children	392.0	286.0
7.	Count 3(b) students at 50 percent for eligibility purposes, pay for them at 40 percent of the 3(a) rate, and require 3 percent absorption of ADA before making payments for federally connected children	327.0	351.4

The alternative proposals would eliminate much of the aid now received by LEAs with small percentages of federally connected children. For example, under the last five alternatives, because of the 3-percent absorption requirement, LEAs with less than 3-percent federally connected students would no longer receive aid. Under the last two alternatives, LEAs with up to 6-percent federally connected students would no longer receive aid because, after applying the 3-percent absorption requirement and counting the 3(b) students at 50 percent, the resultant count for eligible students would be less than 3 percent. As a result, larger percentages of the remaining aid would be directed toward those LEAs with 25 percent or more federally connected children.

Impact Aid Under Various Eligibility and Payment Alternatives

Alternative	Total aid under alternative	LEAs with 25 percent or more federally connected students: Amount of aid	LEAs with 25 percent or more federally connected students: Percent of aid
	(millions)		
Current entitlements	$678.6	$345.0	50.9
1. Eliminate LEAs eligible because of low-rent public housing	610.3	323.0	52.9
2. Reduce 3(b) payment rate to 40 percent of 3(a) rate	584.3	307.4	52.6
3. Pay for only that number of federally connected children exceeding 3 percent of ADA	511.3	324.5	63.5
4. Count 3(b) students at 50 percent for eligibility purposes and pay for them at 50 percent of the 3(a) rate	467.9	321.6	68.7
5. Count 3(b) students at 40 percent for eligibility purposes and pay for them at 40 percent of the 3(a) rate	390.9	284.4	72.7
6. Count 3(b) students at 50 percent for eligibility purposes and require 3-percent absorption of ADA before making payments for federally connected children	392.6	304.3	77.5

Alternative	Total aid under alternative	LEAs with 25 percent or more federally connected students Amount of aid	 Percent of aid
	(millions)		
7. Count 3(b) students at 50 percent for eligibility purposes, pay for them at 40 percent of the 3(a) rate, and require 3 percent absorption of ADA before making payments for federally connected children	$327.2	$266.9	81.5

The previous analyses show that entitlements to LEAs under the impact aid program are quite sensitive to change in eligibility and payment provisions. Because above average impaction can have many definitions, the number of LEAs qualifying as above average and the aid they are entitled to can vary considerably. In general, however, as eligibility and payment provisions become stricter, fewer and fewer LEAs are eligible for aid and a higher percentage of aid would be directed toward those LEAs having larger percentages of federally connected children.

FEDERALLY CONNECTED CHILDREN AND LEA PROSPERITY

The basic rationale for impact aid payments is that the Federal Government by owning property and removing it from the tax rolls, creates a burden on LEAs when children of Federal employees are sent to their schools without also providing funds to offset the tax revenues lost because of the reduced tax base. On the other hand, the presence of a Federal installation could increase the economic activity of an area and cause it to be more prosperous. One HEW-financed study concluded that heavily impacted LEAs tend to have lower taxes, lower ratios of pupils to teachers, and higher per pupil expenditures than lightly impacted LEAs.

We analyzed data from 16 States to determine the relationship between increasing percentages of federally connected children and taxable property values and how such relationship might be reflected in such school financing indicators as tax rates applied to property values to raise revenue for schools, per pupil expenditures, and ratios of pupils to teachers. 1/ Taxes available for schools are the product of some measure of property valuation times a tax rate. Assessment rates determine what proportion of total property values will be taxed, and millage rates are the tax rates applied to the assessed valuations. In our analysis tax rate is defined as the product of the millage rate times the assessment rate and is the rate that would be applied to total property valuation to determine the amount of taxes to be paid. This procedure places all LEAs on the same basic taxing structure.

We further analyzed the data from seven of these States to determine what effect withdrawal of impact aid funds would have on the relationship with tax rates. In general, we found the following conditions to prevail.

1. Increasing percentages of federally connected children tend to show a slight association with higher property values per pupil, but the association is very weak and is not consistent across all 16 States.

2. Increasing percentages of federally connected children generally are associated with lower tax rates to raise revenue for schools, higher per pupil expenditures, and lower ratios of pupils to teachers, but the associations are very weak and are not consistent across all 16 States.

3. Increasing percentages of federally connected children are associated with higher tax rates to raise revenue for schools when taxes are adjusted for loss of impact aid funds, but most of the relationships are moderately weak.

The conclusion for these relationships is that heavily impacted LEAs appear to be associated with favorable school financing indicators but that withdrawal of aid could change the tax relationships considerably if current levels of educational effort are to be maintained. The fact that heavy impaction does not show a stronger relationship than it does

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1/Correlation analysis was used to test for relationships between percentages of federally connected students and the other factors listed. Details are given in appendix II.

with taxes adjusted for loss of aid, however, confirms our previous analysis that many LEAs would not require a great increase in taxes if impact aid was withdrawn. Although our results cannot be considered representative of the entire Nation, they indicate that large percentages of federally connected children do not necessarily indicate serious economic burdens on LEAs.

Property value per pupil

Part of the rationale for impact aid is that LEAs must educate the children of Federal employees without being able to tax the properties on which these employees live or work. It would be expected, therefore, that large percentages of federally connected children would be associated with lower dollar amounts of taxable property per pupil if the presence of Federal installations was an economic burden. We found, however, that although some individual States showed the expected association, the analysis of all 1,671 LEAs in the 16 States showed a very weak association with higher dollar amounts of taxable property per pupil. All of the relationships, both at the individual State level and in total, were very weak or moderately weak.

Because the overall trend showed association with high dollar amounts of taxable property, and because no individual State showed a strong relationship with low dollar amounts, we concluded that large percentages of federally connected children do not necessarily indicate that LEAs would be burdened because of lower dollar amounts of taxable property per pupil.

Tax rates to raise revenue for schools, per pupil expenditures, and pupil/teacher ratios

An HEW-financed study showed that heavily impacted LEAs tended to have lower tax rates to raise revenue for schools than lightly impacted LEAs. It also showed that heavily impacted LEAs tended to have higher per pupil expenditures and lower ratios of pupils to teachers. The study concluded that the effect of impact aid on many LEAs was to allow them to maintain a better level of education with lower local taxes.

Although some individual States showed associations which could be considered burdensome (e.g., higher local tax rates to raise revenue for schools, lower per pupil expenditures, and higher pupil/teacher ratios in heavily impacted areas), analyzing all 1,671 LEAs in the 16 States showed favorable associations (e.g., lower local tax rates to raise revenue for schools, higher per pupil expenditures, and lower pupil/teacher ratios.) However, the relationships, both at the individual State level and overall, were weak. Considering the overall trends, our analysis tends to confirm the conclusion of the previous HEW-financed study that impact aid allows many LEAs to maintain a better level of education at lower local taxes.

Taxes adjusted for loss of impact aid

Although our analyses showed that increasing percentages of federally connected children are generally associated with lower local tax rates to raise revenue for schools, further analyses showed that loss of impact aid funds would change these relationships considerably. Of the 16 States, we analyzed data for 7--5 of which had shown a weak to moderately strong association with lower taxes and 2 a slight association toward higher taxes before adjusting for assumed loss of impact aid funds. Our analysis showed that if local taxes for schools were adjusted for loss of aid, large numbers of federally connected children would be associated with higher taxes in six of the seven States. Two of these relationships are moderately strong. However, most of the relationships are not strong and one State still shows an association with lower taxes.

The reversal in correlation values indicates that impact aid funds have enabled many heavily impacted LEAs to keep their local taxes for schools down. The fact that highly impacted LEAs do not show a strong association with high tax rates even after aid is withdrawn indicates that many heavily impacted LEAs still have lower tax rates to raise revenue for schools than lightly impacted LEAs, a fact that is consistent with our previous analysis of changes in taxes resulting from loss of aid. (See p. 43.)

COMPARISON OF IMPACTED AND NONIMPACTED LEAS

Comparison of impacted and nonimpacted LEAs within a State can show some of the effects of federally connected children on LEAs. The results from 14 of the 16 States in our case study on impacted and nonimpacted LEAS showed that they differed greatly on several important characteristics. For example, the LEAs receiving impact aid funds were generally the largest and most prosperous LEAs within a State. On the other hand, to raise the same amount of local revenue per child as LEAs not receiving aid, impacted LEAs in most States analyzed, on the average, would have to have higher property taxes than nonimpacted LEAs if the aid were not available. The fact that this was not true in all States showed that the presence of federally connected children does not necessarily create a heavy tax burden. Even in those States where impacted LEAs have high tax rates, many individual LEAs that are impacted have lower tax rates than nonimpacted LEAs.

Total property valuation for tax base

In all States analyzed, LEAs receiving impact aid had larger ADA and taxable property of greater volume than those not receiving such aid. Two basic reasons for this are that (1) most very large LEAs were impacted and (2) most very small LEAs were not impacted.

	ADA for LEAs			
	Impacted LEAs		Nonimpacted LEAs	
State	Number	ADA	Number	ADA
A	89	5,170	92	710
B	38	5,267	113	3,439
C	68	1,780	44	1,200
D	57	1,586	110	542
E	24	4,895	16	3,100
F	61	11,407	69	4,320
G	23	2,245	37	780
H	212	4,408	865	1,363
I	62	3,980	240	3,664
J	62	8,418	537	2,756
K	140	698	508	126
L	144	11,107	580	2,717
M	362	1,246	257	447
N	119	7,260	377	3,384

State	Total Property Valuation Per LEA Impacted LEAs Number	 Property valuation (millions)	 Nonimpacted LEAs Number	 Property valuation (millions)
A	89	$173.5	92	$ 30.1
B	38	243.8	113	182.4
C	68	84.2	44	57.9
D	57	58.9	110	23.3
E	24	224.3	16	119.5
F	61	476.9	69	141.8
G	23	94.9	37	55.3
H	212	118.5	865	47.9
I	62	112.0	240	124.6
J	62	369.9	537	111.7
K	140	21.3	508	6.5
L	144	534.9	580	95.6
M	362	51.1	257	26.2
N	119	176.1	377	69.3

Although the above analyses show that the impacted LEAs in the 14 States are larger and more prosperous in total property valuation than other LEAs, further analysis shows that in most of the States impacted LEAs tend to have less property valuation per pupil than the nonimpacted LEAs. Our analysis showed the following regarding property value per pupil.

State	Property Valuations Per Pupil (note a) Impacted LEAs Number	 Property value per pupil	 Nonimpacted LEAs Number	 Property value per pupil	Difference
A	89	$33,563	92	$42,398	$-8,835
B	38	46,288	113	53,035	-6,747
C	68	47,300	44	48,234	-934
D	57	37,161	110	43,013	-5,852
E	24	45,830	16	38,551	7,279
F	61	41,810	69	32,815	8,995
G	23	42,281	37	70,840	-28,559
H	212	26,891	865	35,131	-8,240
I	62	28,145	240	34,007	-5,862
J	62	43,942	537	40,521	3,421
K	140	30,498	508	51,642	-21,144
L	144	48,155	580	35,179	12,976
M	362	40,988	257	58,545	-17,557
N	119	24,261	377	20,469	3,792

a/This analysis is weighted by the size of the LEAs involved. Total property valuations in the State for impacted and nonimpacted LEAs were divided by the total number of students in those LEAs.

Because impacted LEAs tended to have less property value per pupil than nonimpacted LEAs, we also examined tax rates in selected States to determine whether the overall prosperity of impacted LEAs was adequate to override these per pupil differences and result in comparable tax rates.

Analysis of tax rates

The differences in property value per pupil noted above are also reflected in the tax rates that impacted LEAs must levy to maintain the identical level of local per pupil revenue as nonimpacted LEAs. In five of the seven States in which we analyzed data, impacted LEAs, on the average, levy a higher tax than nonimpacted LEAs even though they receive impact aid funds.

Tax Per $1,000 of Property Valuation (note a)

State	Impacted LEAs	Nonimpacted LEAs	Difference
A	$15.60	$12.35	$3.25
B	21.32	18.61	2.71
C	4.11	4.03	.08
D	20.95	18.10	2.85
E	11.62	13.82	-2.20
F	7.96	10.15	-2.19
G	16.16	9.65	6.51

a/These tax rates are real tax rates, that is, assessment percentage times millage tax rate. These rates should be applied to property values at 100-percent valuation to determine total taxes. This procedure was necessary because LEAs tended to assess property values at different levels so millage tax rates were not comparable.

In the two States where impacted LEAs have lower tax rates than nonimpacted LEAs, the impacted LEAs are definitely more prosperous than the nonimpacted LEAs. Not only do the impacted LEAs in these States have larger total property valuations than the nonimpacted LEAs, but they also have a larger property valuation per pupil. This is true even though no funds are provided through property taxes for some federally connected students in these States.

In the two States, A and G above, where impacted LEAs have considerably larger rates than nonimpacted LEAs, a large proportion of the impacted LEAs have very large percentages of federally connected children. For example, 11 of 23 impacted LEAs in one State and 15 of 89 impacted LEAs in the other had more than 25 percent federally connected children in their school systems. Two additional impacted LEAs in the first State and six in the second had more than 20 percent federally connected children. Our previous analyses showed that LEAs having such a proportion of federally connected children generally would have heavy tax burdens should all impact aid be removed. Even in these States there are some impacted LEAs that have lower tax levies for a given level of per pupil revenue than nonimpacted LEAs of similar size.

SUMMARY OF RESULTS OF ECONOMIC IMPACT

Without impact aid entitlements, 48 percent of the 1,671 LEAs analyzed would need property tax increases of less than 5 percent; 18 percent would need tax increases of 5 to 10 percent; and, at the upper extreme, 15 percent would need tax increases of 25 percent or more. Similarly, analyses show that, by eliminating 3(b) aid only, smaller increases in property taxes would be required.

By applying alternative eligibility and payment provisions to the program, total impact aid entitlements could have been reduced between $68 million and $351 million, using fiscal year 1973 as a basis.

AGENCY COMMENTS AND OUR EVALUATION

HEW provided several general comments concerning the matters discussed in this chapter. Its comments and our response are discussed individually as follows.

HEW said that it would be most helpful if we would publish our technical analysis in addition to the summaries presented in this report because it is virtually impossible to make an appraisal of the scientific validity of the work without seeing more details. For example, HEW said that our report frequently refers to strong or weak relationships between two variables but the exact analyses which were carried out are never described nor are the quantitative measures of the strengths of such relationships ever given.

In response, on pages 41 through 43 of this report we indicate the data and methods used for these analyses. This information was also contained in the draft report given to HEW for comment. If HEW's comment is directed toward the discussion of "Federally Connected Children and LEA Prosperity," we indicate on page 54 (and this was also in the draft report) that we used correlation analysis to test the relations between increasing percentages of federally connected children and such school financing indicators as (1) property value per pupil, (2) school tax rates, (3) per pupil expenditures, and (4) ratios of pupils to teachers. We also stated on page 56 (as we had in the draft report) that we used further correlation analyses in seven States to test the relationship between increasing percentages of federally connected children and school taxes adjusted for loss of impact aid funding. The quantitative measures and our interpretation of these measures are included in appendix II, which is referred to in the footnote on page 54. We believe this is an adequate presentation of the methods we used.

HEW said that market value is usually considerably more than assessed value for tax purposes, and a $50 increase in taxes on a home with a market value of $40,000 may well represent a significant percentage increase in taxes and in tax rates.

In the draft report given to HEW for comment, we calculated percentage changes in taxes as well as dollar changes in taxes. On pages 43 through 47 we indicate that our primary emphasis was on percentage changes. We showed dollar changes because not all States place the same emphasis on local property taxes to finance education. We realize, therefore, that large *percentage* changes are not always large *dollar* changes and *vice versa*, as indicated on page 47.

HEW said that our report measures economic burden on an LEA by calculating the tax increase that would be needed if LEAs did not receive payments under the impact aid program. It said that our report should point out that there is by no means agreement on how to assess economic burden and that many analysts would regard the tax increase measure as an inadequate approach. It said that one of the main problems with using increased taxes as a measure of burden is that Federal facilities may create economic gains (e.g., increased incomes) as well as burdens.

Again in the draft report given to HEW for comment, we recognized that the tax increase measure is not the only measure of the economic burden of Federal facilities and, in fact, called our measure only an indirect measure. Also, we noted that no objective measure of economic burden has ever been set forth. (See p. 41.) Previous studies have mentioned economic gain created by Federal facilities but have not found clear-cut ways of measuring such gain because it is extremely difficult to determine what the level of economic activity would have been without the presence of the Federal facility. We believe the tax increase measure is a good indirect measure of burden because it shows how much additional tax LEAs would need to maintain their current level of educational effort should amounts of impact aid be withdrawn.

CHAPTER 5

OTHER MATTERS

In addition to reviewing the validity of claims for impact aid funds, the School Assistance in Federally Affected Areas payment rates, and the impact of federally connected children on local educational areas, we developed information on:

--The effect of one State's plan for equalizing educational revenues made available to its LEAs.

--The effect of a recent amendment to Public Law 81-874 on payments to LEAs for children whose parents work on Federal property located outside the LEA's county or State.

--How SAFA payment rates compared to local educational costs.

THE EFFECT OF ONE STATE'S EQUALIZATION PLAN

Before passage of the Education Amendments of 1974 in August 1974, funds authorized under section 3 of Public Law 81-874 could not be paid to any LEAs in States which considered such payments in determining LEA eligibility for, or the amount of, State aid. This provision was to prevent the use of Federal funds to supplant State funds. The 1974 amendments changed this provision to permit any State which has an acceptable plan to equalize expenditures for public education within the State to consider impact aid payments in determining the relative financial resources available to LEAs. If the State does not have an equalization plan in effect, the consideration of impact aid as local resources will reduce or end payments.

One State we reviewed adopted, in fiscal year 1974, a statewide program to equalize the financial resources of its LEAs. The program is designed to provide more State aid to LEAs with low wealth per pupil than to LEAs with high wealth per pupil. The State defines "wealth" as the sum of assessed property value and taxable income. Under this program, the State grants aid to LEAs that cannot support their legally authorized budget with funds derived from (1) taxing their local wealth, (2) section 3 of Public Law 81-874, and (3) certain miscellaneous receipts. LEAs prepare their own budgets which can be increased only by a certain percentage from one year to the next and must equal at least $600 per pupil.

For computing State aid, each LEA is required to tax its wealth at a specified rate, referred to as the "local effort rate." If an LEA's budget per pupil is above the State-established norm, its local effort must be above the State norm rate in the same proportion that its budget per pupil exceeds the norm. Thus, if the LEA wishes to spend more than the norm budget for education, it must tax its wealth proportionately more. Similarly, if on a per pupil basis the LEA's budget is below the norm budget, its local effort must be proportionately below the norm rate.

The State determines LEA norms using the State's median cost of operating LEAs with certain sizes of school enrollments. For fiscal year 1974 the State divided its LEAs into three enrollment categories and the budget per pupil for each category was:

Enrollment	Norm budget per pupil
Under 400	$936
400 to 1,299	936
1,300 and over	728

The State equalization law mandates a norm tax rate of 1.5 percent of an LEA's wealth to meet the budget. Thus, if an LEA's legally authorized budget is greater than its norm budget, its local tax rate must exceed 1.5 percent by the same percent that the actual budget exceeds the norm budget. Similarly, if the LEA's budget is less than the norm budget, its tax rate must be lower than 1.5 percent by the same percent that the authorized budget is lower than the norm budget. The State aid formula is:

Legally authorized general fund budget		$ XXX
Deductions:		
District wealth times local effort rate	$ XX	
Miscellaneous revenues dedicated to the LEA	XX	
Prior year section 3 receipts	XX	XXX
State aid to LEA		$ XXX

To demonstrate the State equalization program's effect on the five LEAs we reviewed in this State, we compared educational revenues available in fiscal year 1973, before equalization, with those available in fiscal year 1974, after equalization.

	LEA 1	LEA 2	LEA 3	LEA 4	LEA 5
Fiscal year 1973					
General fund budget	$34,038,923	$1,500,893	$348,988	$3,815,301	$3,857,595
Section 3 receipts	270,293	58,915	17,446	111,452	947,875
State aid	6,473,429	464,288	154,141	1,030,899	1,340,404
State aid per pupil	152	284	318	190	241
Fiscal year 1974					
General fund budget	$35,687,638	$1,443,138	$379,942	$3,921,333	$3,989,170
Section 3 receipts (estimate)	270,293	58,915	17,446	111,452	947,875
State aid	10,450,976	527,757	207,758	1,359,341	2,144,049
State aid per pupil	254	335	435	253	404
Percent of increase in State aid per pupil	67	18	37	33	68

During this period, the State increased its aid an average of 47 percent from about $105 million, or $221 per pupil, to $154 million, or $336 per pupil. Although State aid increased appreciably, 53 LEAs, or 17 percent of all LEAs in the State, received less State aid because of their relatively high wealth. Of the 53 LEAs, 41 that had received aid in the past received no State aid under the equalization law.

If section 3 receipts had not been considered in the computations for fiscal year 1974, one of these LEAs would not have been required to raise any local funds and its revenues would still have exceeded the amount that the State legally permits it to budget or spend. The State-computed fiscal year 1974 State aid for this LEA was:

Legally authorized general fund budget		$3,989,170
Deductions:		
District wealth times local effort rate	$763,219	
Miscellaneous revenues dedicated to the LEA	134,027	
Prior year section 3 receipts	947,875	1,845,121
State aid to LEA		$2,144,049

If the supplant provision of Public Law 81-874 had been in effect, the State would not have considered the section 3 receipts in computing State aid, which would have been increased to $3,091,924--the amount of State aid computed above plus the section 3 receipts. Thus, the increased State aid, section 3 receipts, and miscellaneous revenues would have equaled $4,173,826. Because this amount--which does not include any locally raised tax revenues--would have exceeded the fiscal year 1974 legal budget, the LEA would not have been required to use any locally raised tax revenues to finance education program.

If section 3 receipts had not been considered in computing the equalization formula, LEAs would have needed taxes adjusted to remain within legally authorized budget.

PAYMENTS TO LEAS BASED ON FEDERAL PROPERTY LOCATED OUTSIDE THEIR COUNTY OR STATE

Before passage of the Education Amendments of 1974, payments for section 3(b) childen were computed at 50 percent of the approved SAFA payment rate. However, these amendments provide that, beginning with fiscal year 1976, payments for section 3(b) children will vary, depending on the type and location of the federally connected parent's employment. The various payment rates to be applied in fiscal year 1976 are:

1. Children of uniformed services members--50 percent or same as previous rate.
2. Children of employees who live and work in the same county where the LEA is located--45 percent or 10 percent below the previous rate.

3. Children of employees who work outside the county in which they reside--40 percent of the approved SAFA payment rate or 20 percent below the previous rate.

4. Children of employees who work in a State other than the one in which they reside--no payment.

In fiscal year 1973 the 100 LEAs we reviewed received SAFA aid totaling $61.7 million. Following is our estimate of the reduction in total payment based on the new rate provisions applied to fiscal year 1973 SAFA payments. The analysis does not include the effect on the program of any other new provisions of the law, such as (1) payments for students living in low-rent housing and handicapped students and (2) certain "hold harmless" clauses which would reduce the effect on LEAs, for the first year of implementation, of receiving reduced payments for section 3(b) children because of the type and location of the federally connected parent's employment.

Total fiscal year 1973 payments		$61,726,872
Reductions in payments due to:		
Paying 45 percent of payment rate for Federal parents who live and work in same county where LEA is located	$1,802,253	
Paying 40 percent of payment rate for Federal parents who work outside the county in which they reside	895,295	
Not funding pupils of Federal parents who work outside the State in which they reside	a/4,301,237	$6,998,785
Resulting payment		$54,723,087
Percent of payment reduction		11.3

a/Of this amount, $3,886,000 came from one LEA.

The range of reduced payments in some LEAs would have been significant as shown below:

Number of LEAs	Percent of reduction in payment
69	under 10
18	10 to 15
9	16 to 25
2	26 to 50
2	over 50

The four LEAs which would have had more than a 25 percent reduction in their payments were located within reasonable commuting distances 1/ of another State in which there was a Federal installation employing people residing in the areas served by the LEAs. In one State three LEAs claimed large numbers of 3(b) pupils whose parents were employed on a Federal installation within 24 miles of the LEAs but in a contiguous State. One of these LEAs, which would have had about $95,000, or an 8.8 percent reduction in its payment, was within 1 mile of the installation.

Two other LEAs--located in different States--would have had reductions in their payments of about $257,000 or 80 percent, and $3,886,000, or 30 percent, respectively, because most of their 3(b) claims were based on pupils whose parents lived within the LEA boundary and worked on Federal properties located within reasonable commuting distances but in another State.

The intent of the provision for reducing payments [illegible] children with parents employed on Federal property [illegible]ted outside the county or the State in which they reside is given in a March 29, 1974, Senate Report No. 93-763 advocating the reduction. The report states:

> "b category childen who reside with a parent employed on Federal property located outside the school district * * * represent minimal impact on the school district's tax base, since their parent's residence is subject to local taxation and the Federal property, since it is located outside the district, does not detract from the district's tax base.

* * * * *

1/OE considers Federal properties within 100 miles of an LEA boundary to be within reasonable commuting distance.

> "b category children whose parents were employed on Federal property located in another State would not be entitled to payments. Their presence in a school district makes no Federal impact since their parents pay State and local taxes related to the residence, and no Federal property to which such children are related is present within the district or the State to affect adversely the districts' tax base." (Emphasis added.)

The overall intent of section 3 of Public Law 81-874 is to provide financial assistance to LEAs because of federally connected increases in school enrollments without increases in their tax bases. The impact on an LEA's tax base of "b" children with a parent employed on Federal property located outside the LEA and "b" children with a parent employed on Federal property located in another State seems the same because the Federal properties in both instances are outside the taxing jurisdiction of the local taxing authority while the parents' residences are inside.

COMPARISON OF SAFA PAYMENT RATES TO EDUCATIONAL COSTS

At 99 of the 100 LEAs, we compared the fiscal year 1973 SAFA payment rates for each federally connected pupil with (1) school year 1971-72 local contribution rates for each nonfederally connected pupil and (2) total educational costs for each pupil for that school year. One LEA was excluded because it was not operational until school year 1972-73. We made the comparisons using school year 1971-72 revenue and cost data because OE uses 2-year old data in computing payment rates.

We computed the local contribution rate for nonfederally connected children by dividing the LEA's local revenues by its ADA minus (1) the ADA of all childen living with a parent both employed and residing on Federal property because LEAs are presumed to receive no local revenue for educating these children and (2) one-half the ADA of children living with a parent eitner employed or living on Federal property because LEAs are presumed to receive only 50 percent of normal local educational revenues for educating these children. This method of adjusting ADA is consistent with the major premise underlying section 3 of Public Law 81-874--half of the real property tax required to meet the local share of the cost of educating a child is derived from taxation on residential property and half on commercial property.

Although OE uses local contribution rates for nonfederally connected children in determining allowable payment rates to the LEAs, OE officials said that this measure is not appropriate in all cases; that is, when LEAs receive substantial local revenues even though most of the children enrolled in their schools are federally connected. We used locally financed cost per nonfederally connected pupil as the basis of our comparison because we believe that in most cases it is a useful yardstick.

The percent of educational revenues collected from local sources varied considerably from one State to another and some of these variances were due to different State policies for financing education. Some of the 17 States used State aid to finance a large percentage of local education costs while others financed a much smaller percentage. LEAs in high-State-aid States tended to have lower local contribution rates than LEAs in low-State-aid States. The LEAs in high-State-aid States generally claimed SAFA minimum rates because their local contribution rates were below the minimum rates. Our comparison showed that these LEAs received much more in relation to their non-Federal local contribution rates than the LEAs in low-State-aid States.

We also compared the LEA SAFA payment rates to total educational cost per pupil to nullify as far as possible the influence of State policies on financing education. This enabled us to compare SAFA payment rates received by LEAs in one State to those received by LEAs in other States. Because the SAFA payment rate is intended to compensate LEAs for losses in local revenues, we also included, as a point of reference in our analysis, OE statistics on statewide LEA average educational costs contributed from local sources.

Although considerable variances existed between SAFA payment rates and per pupil educational costs, the law does not stipulate that SAFA payment rates must relate directly to the recipients' education costs. Minimum SAFA rates are used by LEAs requesting such a rate and are based on State or national average costs. Comparable rates are used by LEAs requesting and justifying such rates and are based on the education costs of comparable LEAs. (See ch. 3.)

Our analysis of the 99 LEAs showed that fiscal year 1973 SAFA payment rates for federally connected pupils varied substantially from actual school year 1971-72 local contribution rates per nonfederally connected pupil. The payment rates that exceeded the local contribution rates per nonfederally connected pupil the most were the minimum rates. Our analysis also showed that payment rates in relation to total educational costs per pupil varied considerably among the LEAs.

Comparison of minimum SAFA rates to educational costs

In fiscal year 1973 some LEAs claimed and received payments based on minimum SAFA rates which exceeded their local contribution rates per nonfederally connected pupil. The minimum SAFA rates for federally connected pupils of two LEAs exceeded their total education costs per pupil.

Before 1953 Public Law 81-874 contained no minimum rate provision. LEA payment rates were based on local contribution rates in comparable LEAs. LEAs in States which financed a large percent of their educational costs with State funds had small local contribution rates and, consequently, received relatively small SAFA payments. Conversely, LEAs in States which financed a smaller percentage of their education costs had larger local contribution rates and, consequently, received larger SAFA payments.

To avoid discriminating against States which financed a large percent of educational costs, the Congress amended Public Law 81-874 to establish a minimum payment rate. The minimum rate is equal to the higher of either one-half the national or one-half the State average expenditure per pupil. In no case may the minimum rate exceed the State average expenditure per pupil.

Of the 4,581 LEAs which received section 3 payments in fiscal year 1973, 2,876, or 63 percent, claimed minimum rates. Although the minimum rate provision appears to achieve the intent for which it was designed, some LEAs used payment rates which were much more than their local contribution rates per nonfederally connected pupil and, in a few LEAs, more than their total per pupil expenditures from all sources. In one State, for example, five LEAs used payment rates 2.7 to 7 times their local contribution rates for nonfederally connected children for school year 1971-72 and from 86 to over 114 percent of their total educational costs per pupil.

Of the 99 LEAs we analyzed, 59 in 13 States claimed minimum rates in fiscal year 1973. The following table shows the relationship between minimum payment rates for federally connected pupils and local contribution rates per nonfederally connected pupils.

Comparison of Fiscal Year 1973 Minimum SAFA Payment Rates to School Year 1971-72 Local Contribution Rates for Non-Federal Pupils

State	LEAs whose minimum SAFA rate was Less than non-Federal local contribution rate	1 to 1.99 times non-Federal local contribution rate	2 to 4 times non-Federal local contribution rate	Over 4 times non-Federal local contribution rate
A	2	-	-	-
B	-	-	-	6
C	-	2	-	-
D	3	6	2	-
E	1	1	1	-
F	-	-	2	3
G	-	-	4	1
H	-	1	3	-
I	-	-	3	2
J	-	2	6	-
K	-	3	3	-
L	-	1	-	-
N	1	-	-	-
Total LEAs 59	7	16	24	12

As shown in the table, SAFA payment rates for federally connected pupils in 36 LEAs were more than twice their local contribution rates per nonfederally connected pupil.

The following table shows the relationship between minimum payment rates and the LEAs' total educational costs per pupil. We have included in this table OE's data on each State's average percentage of educational revenues from local sources. Because the SAFA payment rate is intended to compensate for the loss of local revenues, the State average is a reference to measure whether SAFA payment rates, as a percent of total per pupil costs, are more or less than the LEAs contribute to educational revenues from local sources.

Fiscal Year 1973 Minimum SAFA Payment Rates as a Percent of School Year 1971-72 Total Educational Costs Per Pupil

State	Average percent of revenues from local sources (note a)	LEAs whose minimum SAFA rates were Below 60 percent	60 to 69.9 percent	70 to 100 percent	Over 100 percent
A	67	1	1		
B	20		5	1	
C	52	2			
D	48	5	3	3	
E	59	1	1	1	
F	28			5	
G	35			5	
H	35		3	1	
I	22			3	2
J	40		2	6	
K	41			6	
L	68			1	
N	58	1	--	--	-
Total LEAs	59	10	15	32	2

a/Data source was HEW's National Center for Educational Statistics.

As shown in the table, 34 of the 59 LEAs used payment rates for each federally connected pupil that were more than 70 percent of their total per pupil educational costs. Although not shown in the table, for 53 of the LEAs, the SAFA payment rates per federally connected pupil, as a percent of total per pupil costs, were more than the States' average percent of educational revenues for all LEAs from local sources.

Comparison of SAFA rates based on comparable LEAs to educational costs

We compared the SAFA payment rates of the 40 LEAs which used either the group or individually selected comparable LEA method of computing payment rates to their local contribution rates for nonfederally connected pupils. The following table shows that these methods also produced widely varying results in relation to the LEAs' contribution rates for nonfederally connected pupils.

Comparison of Fiscal Year 1973 SAFA Payment Rates Based on Comparable LEAs to School Year 1971-72 Local Contribution Rates for Non-Federal Pupils

State	LEAs whose rates based on comparable LEAs were Less than 70 percent of local contribution rate	Between 70 and 99.9 percent of local contribution rate	Between 100 and 130 percent of local contribution rate	Over 130 percent of local contribution rate
C		4		
E	2	2	2	
K			1	
L		3	4	2
M	1	4		
N		3	1	
O		1		
P		2	2	1
Q	-	3	2	-
Total LEAs 40	3	22	12	3

SAFA payment rates computed using comparable LEAs ranged from 54 percent to over 175 percent of the local contribution rates for nonfederally connected pupils.

The following table compares SAFA payment rates to the LEAs' total educational costs per pupil. We have included each State's average percentage of educational revenues from local sources as a reference to measure whether SAFA payment rates, as a percent of total per pupil costs, were more or less than the LEAs contributed to education revenues.

Fiscal Year 1973 SAFA Payment Rates Based on Comparable LEAs as a Percent of School Year 1971-72 Total Educational Costs Per Pupil

State	Average percent of revenues from from local sources (note a)	LEAs whose comparable payment rates were Below 60 percent	60 to 69.9 percent	70 to 80 percent	Over 80 percent
C	52	2		2	
E	59	3	2	1	
K	41		1		
L	68		1	3	5
M	86			1	4
N	58		1	3	
O	53			1	
P	64	1	1	2	1
Q	63	2	3	-	-
Total LEAs 40		8	9	13	10

a/Date source was HEW's National Center for Educational Statistics.

Payment rates ranged from 49 to 99 percent of total educational costs per pupil, with 23 of the 40 LEAs using rates greater than 70 percent of their total costs per pupil. Although not shown in the table, the SAFA payment rates per federally connected pupil for 27 of the LEAs, as a percent of total per pupil costs, were more than the States' average percentage of educational revenues for all LEAs from local sources.

FISCAL YEAR 1973 STATISTICS

ON LEAS REVIEWED

	Enrollment for			
	LEA	Section 3(a) pupils	Section 3(b) pupils	SAFA funds received
Alabama				
Huntsville City Board of Education	35,157	1,145	10,582	$1,584,393
Decatur City Board of Education	9,169	-	960	132,207
Baldwin County Board of Education	14,443	-	722	98,424
Birmingham Public Schools	57,725	-	424	56,597
Troy City Schools	2,447	-	54	7,604
Arizona				
Tucson School District No. 1	43,278	1,161	6,144	1,211,894
Rice School District No. 2	1,153	1,026	125	397,767
Mesa Elementary school District No. 4	18,159	255	1,435	286,553
Phoenix Union High School District No. 210	28,553	2	994	124,792
Flagstaff School District No. 1	5,524	190	206	94,468
Scottsdale Common School District No. 48	19,135	-	490	63,092
Glendale Elementary School District No. 4	6,778	-	465	60,254
Alhambra School District No. 68	9,341	-	352	46,945
Casa Grande Union High School District	1,518	112	32	44,649
Winslow Elementary District No. 1	1,629	11	207	30,927
Pinetop Lakeside Elementary School District No. 32	706	5	182	25,920
California				
San Diego Unified School District	124,952	5,474	21,220	6,183,550
Alameda Unified School District	11,862	2,061	1,788	1,215,174

	LEA	Enrollment for Section 3(a) pupils	Enrollment for Section 3(b) pupils	SAFA funds received
California				
Los Angeles Unified School District	621,232	1,069	14,466	$2,964,485
Palm Springs Unified School District	6,921	58	796	157,000
Maripose County Unified School District	1,405	237	172	130,595
Escondido Union High School District	5,429	5	355	87,607
Del Paso Heights School District	1,906	-	267	37,146
Jefferson School District	8,867	-	445	66,103
Roseville City School District	2,038	-	303	45,629
Colorado				
School District No. 1	91,603	898	5,012	1,621,555
Air Academy School District No. 2	4,679	1,781	968	921,293
Adams Arapahoe Joint School District No. 28	19,615	305	5,184	845,349
Cheyenne Mount School District No. 12	2,127	-	263	82,879
North Park School District R-1	576	8	194	45,983
Connecticut				
Town of Groton Board of Education	9,268	2,942	1,083	1,861,531
Town of Ledyard Board of Education	3,975	15	1,419	253,015
Hartford Board of Education	29,215	-	308	77,093
Bridgeport Board of Education	24,451	-	373	56,288
Ansonia Board of Education	3,854	29	120	34,814
Florida				
Okaloosa County Board of Public Instruction	26,928	3,716	10,698	2,779,500
District School Board of Seminole County	26,752	-	1,347	185,734

	Enrollment for			
	LEA	Section 3(a) pupils	Section 3(b) pupils	SAFA funds received
Florida				
Columbia County School Board	6,894	-	497	$ 66,981
Brevard County Board of Instruction	62,165	2,025	20,689	3,547,647
Georgia				
Dougherty County Board of Education	22,506	1,252	2,574	777,341
Board of Education Lowndes County	6,689	388	598	221,063
McIntosh County Board of Education	2,116	-	119	14,917
Calhoun City Board of Education	1,869	-	109	14,478
Harris County Board of Education	2,714	-	87	11,261
Kansas				
Unified School District No. 26	5,733	1,071	1,545	618,394
Shawnee Mission Unified School District No. 12	46,682	-	2,271	301,811
Unified School District No. 383	5,653	-	967	135,656
Unified School District No. 473	1,621	-	327	49,719
Oskaloosa Unified School District No. 473	498	-	43	6,195
Massachusetts				
Framingham School Committee	15,437	-	555	140,872
City of Peabody School Committee	10,423	-	397	91,965
Town of Brookline School Committee	6,053	58	113	86,275
Melrose School Committee	6,997	-	324	79,615
Cambridge School Committee	9,764	-	208	75,632
North Middlesex Regional School District	3,454	-	213	50,995
Marlborough School Committee	6,790	-	176	24,779

	Enrollment for			
	LEA	Section 3(a) pupils	Section 3(b) pupils	SAFA funds received
Massachusetts				
School Committee of the City of Chicopee	12,615	2,231	609	$1,142,737
Bourne School Committee	3,480	1,306	381	1,168,304
School Committee of the City of Boston	94,711	6	1,933	425,613
Montana				
Elementary School District No. 1	12,672	1,557	1,695	805,514
Billings Elementary School District No. 2	11,388	-	457	63,618
New Hampshire				
City of Portsmouth	5,961	1,671	1,140	1,077,950
Rochester Unified School District No. 54	4,395	-	409	64,098
Hampton School District	1,536	-	184	38,748
Concord Unified School District	5,284	-	161	37,411
Hanover School District	669	-	38	11,564
New Mexico				
Albuquerque Municipal School District No. 12	83,336	2,363	12,791	2,625,604
Espanola Municipal School District No. 45	5,973	303	1,062	258,379
Los Lunas Municipal School District No. 1	3,450	195	613	143,367
Santa Fe Public School	11,620	6	921	127,364
Pojaoque Valley Board of Education	1,274	145	478	118,169
Taos Municipal School District No. 1	3,196	87	182	56,222
Oklahoma				
Lawton Independent School District No. 8	20,840	2,185	8,585	1,929,024
Oklahoma City Independent School District No. 89	59,241	-	5,571	705,791
Putnam City Independent School District No. 1	20,240	-	1,767	239,407

		Enrollment for		
	LEA	Section 3(a) pupils	Section 3(b) pupils	SAFA funds received
Oklahoma				
Moore Independent School District No. 2	10,980	-	1,714	$ 230,632
Guthrie Independent School District No. 1	2,951	-	191	25,886
Sterling Independent School District No. 1	406	6	101	16,363
Chatanooga Independent School District No. 132	250	22	32	15,103
South Carolina				
Berkeley County Board of Education	18,369	1,447	4,236	1,108,714
McCormick School District No. 4	2,258	8	181	27,424
Barnwell School District No. 45	2,192	-	287	40,071
North Public School District No. 1	2,479	-	80	10,822
Denmark School District No. 8	1,691	-	57	7,604
Texas				
Fort Worth Independent School District	80,466	1,184	8,442	1,527,428
Abilene Independent School District	18,936	1,178	2,403	750,630
Austin Independent School District	56,139	-	3,903	520,495
San Marcos Independent School District	4,783	86	483	95,664
Duncanville Independent School District	5,661	10	472	68,564
Granbury Independent School District	1,363	-	139	19,012
Bastrop Independent School District	1,925	-	110	14,917
San Antonio	72,376	283	10,766	1,490,377
Virginia				
County School Board of Fairfax County	129,774	1,970	51,592	12,934,540

	Enrollment for			
	LEA	Section 3(a) pupils	Section 3(b) pupils	SAFA funds received
Wyoming				
Laramie County School District No. 1	14,025	1,062	2,862	$ 798,711
Natrona County School District No. 1	13,516	12	833	119,065
Southwest School District No. 9	476	17	168	83,621
Teton County School District No. 1	1,445	117	171	84,453
School District No. 4	3,700	-	369	79,281
Fremont County Vocational High School	918	92	69	61,849
School District No. 6	448	91	23	71,350
Total	2,315,836	46,939	250,628	$61,726,872

CORRELATIONS OF PERCENT OF IMPACTION

WITH SELECTED VARIABLES (note a)

State	Real property value per pupil	Per pupil expenditure	Pupil to teacher ratio	Tax rate	Adjusted for loss of aid (note b)
All 16 States	.039	.030	-.097	-.260	
A	-.140	-.059	.032	-.292	.473
B	-.270	-.111	.010	.224	.477
C	.043	.289	-.228	-.153	.540
D	.329	.003	-.110	-.362	-.231
E	-.301	.044	-.185	-.511	.424
F	.150	.299	.132	.083	.322
G	.051	.644	-.325	-.565	.540
H	-.038	.004	-.060	-.287	-
I	-.136	-.082	-.004	-.307	-
J	-.233	.095	-.091	-.467	-
K	-.139	.086	-.276	-.324	-
L	.267	.391	.247	-.211	-
M	-.014	.147	-.109	-.137	-
N	-.147	-.131	.041	-.259	-
O	-.188	-.080	.162	-.335	-
P	.019	-.038	-.032	-.281	-

a/Correlation analysis is a statistical technique which shows the degree to which changes in given variables are associated with one another. Positive correlation coefficients indicate direct relationships (increases associated with increases) while negative coefficients indicate inverse relationships (increases associated with decreases).

The closer a coefficient is to 1 or -1, the greater the extent to which the changes in two variables are associated with another. Values close to zero indicate almost no relationship. For our purposes, we classified correlation coefficients as follows:

.7 or greater (-.7 or less)	Very strong
.5 to .699 (-.5 to -.699)	Moderately strong
.25 to .499 (-.25 to -.499)	Moderately weak
Less than .25 (0 to -.249)	Very weak

b/Only seven States were used in this part of our analysis. The analysis was concentrated in those States which showed negative correlation with unadjusted tax rates but included two that showed positive correlation with the unadjusted rates.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

[illegible] 23 1978

Mr. Gregory J. Ahart
Director, Manpower and
Welfare Division
United States General
Accounting Office
Washington, D. C. 20548

Dear Mr. Ahart:

The Secretary asked that I respond to your request for our comments on your draft report entitled, "Assessment of the Impact Aid Program". The enclosed comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

We appreciate the opportunity to comment on this draft report before its publication.

Sincerely yours,

John D. Young
Assistant Secretary, Comptroller

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE COMMENTS ON A GAO DRAFT REPORT, "ASSESSMENT OF THE IMPACT AID PROGRAM"

GENERAL COMMENTS

Some of the General Accounting Office Report recommendations can be concurred with in full and others partially. Some of the procedures and conditions in effect during the GAO review of P.L. 81-874 in Fiscal Year 1973 are no longer the same due to the complex changes made by P.L. 93-380 which was approved August 21, 1974. These changes with few exceptions became effective in Fiscal Year 1976.

Overclaims

GAO states that the Office of Education (OE) regulations and instructions for determining eligibility need to be clarified and better enforced to prevent local educational agencies (LEAs) from overclaiming and underclaiming numbers of federally-connected pupils in their applications. We believe the instructions are in accord with the intent of the law. Applicants are advised to claim any property and children associated with such property they believe may be eligible Federal property. Unless a property is claimed by an applicant, there is no way for OE to verify the property as eligible or ineligible. To reduce the number of LEAs overclaiming potentially federally-connected pupils, a possible solution is increased manpower in the Regional Offices to service and assist applicant school districts. Prior to 1967 when there were about 45 SAFA Program Officers in the Regional Offices, all applications from LEAs were reviewed annually, errors discovered, and corrections made. Since that time, because of cutbacks in overall agency staffing by both the Administration and the Congress, SAFA staff has been reduced to 24. Instead of reviewing all applications, an attempt is made to review the records maintained by each applicant at least once every three years. In addition, SAFA Program Officers are requested to review annually claims by new applicants, special section applicants and "border line" applicants (those barely meeting eligibility requirements). These suggested procedures for reviewing cases cannot be met due to other duties imposed upon the SAFA Program Officers.

(See GAO note, p. 90.)

* * * the terms "employed on" and "working on" are used synonymously. The understanding of many applicants and regional program personnel has been that they should consider a pupil as eligible federally-connected, if the parent is "working on" or "employed on" a Federal property on the date used by the LEA in making its parent-pupil survey. The basis for adopting the "one count system" is that it provides an administrative tool in order to determine the number in

average daily attendance of children with parents employed on Federal property on one specific date in the school year regardless of the number of parents who may have been working on, or will be working on this same Federal property the balance of the year.

Regarding LEA instructions for seeking eligible pupils as noted on page 14 of the report, an OE review of the facts indicates:

(1) that while a school district did in fact instruct teachers to count as federally connected pupils whose parent may drive a truck through a military base on the date of the survey, a review of the records did not uncover that any such pupils were claimed; the school district has agreed to delete such instructions in the future; and

(2) the records, for the school district alleged to have made the suggestion that a music teacher arrange her schedule so as to be working at a school located on Federal property on the survey date, did not indicate that any such children of a music teacher or any other questionable children were claimed.

The report called our attention to a school district claiming children of loggers without documentation that the parents were working more than 50 percent of their time on Federal property. Steps have been taken to assure that this school district will maintain proper records hereafter. The school district obtained the proper certification on their 1974-75 application; their survey form for the 1975-76 school year has a special certification pertinent to lumbering activities.

(See GAO note, p. 90.)

Technical Analysis

It would be most helpful if GAO would publish their technical analyses in addition to the summaries as given here. It is virtually impossible to make an appraisal of the scientific validity of the work without seeing more details. For example, the text frequently refers to strong or weak relationships between two variables. However, the exact analyses which were carried out are never described nor are quantitative measures of the strengths of such relationships ever given. GAO reports which use scientific methods should be subject to the same public scrutiny as other technical reports.

(See GAO note, p. 90.)

Market value is usually considerably more than assessed value for tax purposes, and a $50 increase in taxes on such a home may well represent a significant percentage increase in taxes and in tax rates (p. 43).

Methodology

The GAO report measures economic burden on an LEA by calculating the tax increase that would be needed if LEAs did not receive payments under the impact aid program. The report should point out that there is by no means agreement on how to assess economic burden and that many analysts would regard the tax increase measure as an inadequate approach. For example, a recent study prepared for HEW 1/ proposed two research designs for measuring the economic burden of Federal facilities: neither design used tax increases as a measure. One of the main problems with using increased taxes as a measure of burden is that Federal facilities may create economic gains (e.g., increased incomes) as well as burdens. The increased taxes measure in effect disregards improvements in the economic welfare of LEA residents due to the Federal presence.

GAO Recommendation

That the Secretary direct OE to strengthen administrative controls over the impact aid program by:

1. Clarifying the requirements that a parent must meet to be considered "employed on Federal property" so that payments to LEAs will better relate to the tax-exempt status of the property.

1/ National Planning Association. Alternative Research Design for Measuring the Economic Impacts of Federal Facilities on Localities Eligible for Impact Aid Grants. Washington, D.C., September 29, 1975.

Department Comment

We concur in the need for clarification of the term "employed on Federal property." A number of legal opinions have been rendered by the Department's Office of General Counsel relating to the concept of "employed on" Federal property since the beginning of the program. We will undertake to rewrite instructions which have been issued for use by LEAs and Program staff to make them more definitive. Prior to revising current instructions the problems inherent in modifying current understandings and developing more definitive statements will be reviewed thoroughly.

GAO Recommendation

2. Requiring adequate documentation from LEAs to determine whether a child with a civilian parent employed or working on Federal property actually resides with the federally-connected parent.

Department Comment

Federal Regulations (45 CFR 115.3(j)) state that "Name...of parent...who is employed on Federal property and with whom such pupil resides, unless the parent is a member of the uniformed services on active duty," is a required item on the parent-pupil survey form. Some LEAs use the above phraseology intact while others ask for both the parent's and child's address to show they reside together. We will strengthen instructions in this area but believe that only through extensive field review with a larger regional staff could this situation be appreciably improved.

GAO Recommendation

3. Requiring adequate documentation from LEAs to determine whether a child is a dependent of a uniformed services parent.

Department Comment

P.L. 81-874 Section 3(a)(2) states -- "had a parent who was on active duty in the uniformed services." No requirement of dependency is expressed in the statute. However, in the past, including FY 1973, the uniformed services clause was administered, generally, in such a manner as to require the federally-connected child to reside with the spouse of, or the parent who was on active duty. Revised regulations eliminated the "reside with" qualification so that it would be in keeping with the statutory language. We do not believe it is feasible to seek more information than is currently required. However, we would be interested in obtaining clarification from GAO as to what type of information they believe is required and where the "dependency" requirement fits into the language.

GAO Recommendation

4. Adopting an alternative procedure to be used for States and LEAs that have different procedures for computing ADA to help insure the ADA estimates are made on the same basis.

Department Comment

P.L. 81-874 Section 403(10) establishes the definition of Average Daily Attendance as that which is determined in accordance with State law. Not to accept the ADA computed in this manner would require a change in the present language. We concur with GAO that by using a national average of ADA ratio to membership for all States and LEAs, would simplify administration of the law and could lessen ADA computational errors.

Another alternative would be to compute entitlement and an entitlement for payment on the basis of membership. A number of States now rely upon membership or average daily membership (ADM) data for financial and statistical purposes and do not keep attendance or ADA data except for Federal program purposes. Following this trend may avoid computational errors associated with conversion to ADA data. Recommendations will be made as to how the law must be modified to permit this type of computational average.

GAO Recommendation

5. Reviewing State aid allocation formulas relative to the supplant provision of the law.

Department Comment

It should be noted that with the passage of P.L. 93-380, which included the amendments to Section 5(d), in depth examinations of State aid programs will occur. States under certain conditions, with these amendments, now may consider P.L. 874 funds as local resources when computing State aid. OE has required field reviews and reports each year from Regional SAFA Program Officers relative to Sections 5(d)(1) and (2). We do concur with GAO that this is a necessary safeguard and a very important action. Again, it is dependent upon having the proper qualified number of Program Officers available in Regional Offices to make these studies, and States notifying the Office of Education of any change in State assistance law, policy or procedure.

GAO Recommendation

6. GAO recommends that the Secretary direct OE to: Review the revenue which LEAs and SEAs report to determine if it is received from State or local sources.

Department Comment

We concur in principle. However, the manpower now located in the SAFA Regional Offices cannot fulfill their present workloads which includes an in depth analysis of revenues to determine their sources in every instance.

GAO Recommendation

7. Specify in instructions for SEAs and LEAs the weight that should be given to its published criteria items, and establish ranges for each criterion to assist in compiling the data necessary for selecting comparable LEAs.

Department Comment

We recognize the need for study of this problem to determine whether improvements can be made. If the use of a weighting system is deemed advisable, recommendations will be made to accordingly change existing regulations.

GAO Recommendation

8. Develop procedures for approving Federal payment rates derived using comparable LEAs which are consistent with its instructions for selecting such LEAs.

Department Comment

We disagree since present procedures do provide for a review of the criteria set forth in the instructions for selecting comparable LEAs. The methods used for actual computation of the local contribution rates is set forth in 45 CFR 115.31.

GAO Recommendation

9. Require that applicants use as comparables only those LEAs that do not receive SAFA aid or determine an alternative procedure to remove the influence of federally-connected children from per pupil cost calculations.

Department Comment

To the extent possible, we have followed this practice. The instructions to applicant LEAs (OE Form 4019, 10/75)page 7 states: "The 5 comparable districts should not include applicants under Section 3 of the Act and should be selected in accordance..." Page 12 of the same instructions somewhat modifies the above by saing "if an applicant district is included among the suggested comparable districts..." However, in some States it is difficult to select comparable districts which are not federally impacted to some degree. In those instances their influence is reduced to the extent possible in computing the local contribution rate.

GAO note: Deleted general comments pertain to matters which were presented in the draft report but have been revised in this final report.

PRINCIPAL HEW OFFICIALS
RESPONSIBLE FOR ADMINISTERING
ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
SECRETARY OF HEALTH, EDUCATION, AND WELFARE:		
David Mathews	Aug. 1975	Present
Caspar W. Weinberger	Feb. 1973	Aug. 1975
Frank C. Carlucci (acting)	Jan. 1973	Feb. 1973
Elliot L. Richardson	June 1970	Jan. 1973
ASSISTANT SECRETARY FOR EDUCATION:		
Virginia Y. Trotter	June 1974	Present
Charles B. Saunders, Jr. (acting)	Nov. 1973	June 1974
Sidney P. Marland, Jr.	Nov. 1972	Nov. 1973
COMMISSIONER OF EDUCATION:		
William F. Pierce (acting)	Aug. 1976	Present
Terrel H. Bell	June 1974	Aug. 1976
John R. Ottina	Aug. 1973	June 1974
John R. Ottina (acting)	Nov. 1972	Aug. 1973
Sidney P. Marland, Jr.	Dec. 1970	Nov. 1972
Terrel H. Bell (acting)	June 1970	Dec. 1970

Appendix 6

MAJORITY MEMBERS
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WILLIAM D. FORD, MICH.
IKE ANDREWS, N.C.
MICHAEL BLOUIN, IOWA
PAUL SIMON, ILL.
LEO ZEFERETTI, N.Y.
RONALD MOTTL, OHIO
AUSTIN J. MURPHY, PA.
JOSEPH A. LE FANTE, N.J.
TED WEISS, N.Y.
CEC HEFTEL, HAWAII
BALTASAR CORRADA, P.R.
DALE E. KILDEE, MICH.
GEORGE MILLER, CALIF.

225-4368

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ELEMENTARY, SECONDARY
AND VOCATIONAL EDUCATION
B-345C RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

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JOHN M. ASHBROOK, OHIO
LARRY PRESSLER, S. DAK.
WILLIAM F. GOODLING, PA.
SHIRLEY N. PETTIS, CALIF.
CARL D. PURSELL, MICH.

July 5, 1977

Mr. William Stormer
Director
Division of School Assistance in
  Federally-Affected Areas
U. S. Office of Education
Washington, D. C.

Dear Mr. Stormer:

During the course of the Subcommittee hearings on impact aid, you were notified that we would be submitting additional questions to be answered for the record. Given the restraints of time, we were not able to pursue all of these questions at the hearings.

Therefore, we would appreciate your responding to these questions as soon as possible, and no later than July 15th, so that we can include them in our hearing record. The questions are attached to the letter.

Thank you very much.

Sincerely,

Carl D. Perkins
Chairman

CDP/jm

cc: Ray Peterson

Questions to Stormer:

1. The uncertainty of the amount and timing of impact aid payments appears to be one of the greatest problems of the program. What steps are being taken to correct this situation?

2. To what extent do LEAs carry over impact aid funds?

3. What percentage of districts receiving impact aid funds use the various methods of determining payments, e.g. comparable districts, groupings, and State and national averages?

4. What is the role of the HEW regional offices regarding the impact aid program? Are they able to provide assistance in applications, questions of pupil eligibility, and computation of rates? Do you feel there is adequate staff in the regional offices working on this program?

5. As I understand it, the supplemental appropriations bill earmarks 17 new positions for the division administering the impact aid laws. Have you hired the 17 individuals yet and to what responsibilities will you assign them?

6. What percentage of impact aid funds are retained by LEAs to cover administrative costs? How much is retained for administration at the State and Federal level?

7. What coordination is there between your division and the O.E. Title I people for administration of the low rent public housing program?

8. Do you feel it would be feasible to structure the low rent public housing section of the law like the handicapped provision, where districts would receive a base payment for all LRH children and an additional percentage for cases where they are providing Title I type services for these children?

9. Since the law does not permit funds to private non-profit educational institutions, handicapped in private facilities could not be counted for handicapped funds. Does this create any problems?

Stormer

10. What is the current per pupil expenditure at each of the Section 6 schools, and what is the average per pupil expenditures for all these schools?

11. What would be the estimated savings, if the responsibility for the education of all dependents of the Department of Defense employees and persons employed on property administered by the Department of Defense were turned over to the Department of Defense?

12. What are the procedures used to determine whether or not a school will come under Section 6? In the past five years, how many have sought that classification, and how many have been approved?

13. What is the physical plant like in Section 6 schools other than Ft. Buchanan?

14. How much has been used under each authority for disaster assistance for the last five years? Where did the funds come from: direct appropriation, supplemental appropriation, or from another program?

15. Have any impact funds been used recently under P.L. 815 for construction of Section 6 schools?

16. What is the current estimated total appropriation which would be needed to completely clear the backlog of unfunded construction applications? How many districts in how many States are affected by this backlog?

17. Do districts which are on the waiting list for construction funds usually get school construction money elsewhere, or do the school facilities generally not get built?

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

JUL 20 1977

Honorable Carl D. Perkins
Chairman, Committee on
Education and Labor
House of Representatives
Washington, D.C.

Dear Mr. Chairman:

Thank you for your letter of July 5 submitting additional questions to be answered for the record.

We have provided answers in the enclosures. I am sorry that we were unable to respond by July 15 as you requested.

Sincerely yours,

William L. Stormer
Director, School Assistance
in Federally Affected Areas

Enclosures

Question: The uncertainty of the amount and timing of impact aid payments appears to be one of the greatest problems of the program. What steps are being taken to correct this situation?

Answer: The uncertainty of the amount of the payment has existed since the beginning of the program but has become more of a problem in recent years because so many more school districts are suffering financial difficulties. Similarly, the timing has become more of a problem in recent years for the same reason. For a number of years, applications were not due to be filed in the Office of Education until March 31. As now, some applications were filed steadily from the beginning of the school year with most being filed on the deadline date then wanting an immediate payment. We moved the deadline date up to January 31 several years ago to allow for some earlier payments and more time for processing all initial payments before the close of the school year. But because of increasing local school district financial difficulties, more and more districts have been requesting earlier payments. We have met our June 30 deadline for processing initial payments each year. When the percentage that our payment represents of total budgets is so small in many school districts, it is difficult to understand the increasing number of requests for earlier and earlier SAFA payments.

Although some discussions have taken place, we need to devote more time in the area of developing and evaluating possible alternatives to present procedures. To date, the following possibilities have been mentioned:

A. On the basis of previous years' data, estimate by State the ratio of average daily attendance to membership for use in processing the current year's applications. Thus, a firm (although estimated) determination of entitlement and payment would be made during the processing of an application (before the close of the school year) instead of changing when the school district files a final report of actual average daily attendance after the close of each school year. This would benefit districts by allowing them to know absolute amounts they can depend on for the current year. Possibly, we also might be able to provide the full payment before the close of the school year. The Division would benefit by fewer processings not only of regular entitlements and payments but of hold harmless payments as well. We are not certain at this time, but believe that this kind of firm (although estimated) determination is possible because the law presently provides the Commissioner authority to determine the average daily attendance of Federally-connected children.

B. Determine eligibility and payment on the basis of membership of federally-connected children on a single survey date rather than on the basis of average daily attendance. This would accomplish the same benefits as "A" without the necessity to determine a ratio for each State. This procedure would definitely require a change in the law that presently calls for determinations on the basis of average daily attendance. The local contribution rate could be reduced (also by changing the law) to reflect the use of higher membership figures as compared to average daily attendance, or left unchanged, it would somewhat make up for the two year old fiscal data on which rates are based.

C. Upon the receipt of applications, but without analyzing them, provide an immediate payment based on some portion of the previous year's payment. This would provide timelier payments, although perhaps smaller than usual initial payments, but would not meet the need for districts to know firm amounts for the year. Inquiries might still be numerous from school districts wanting to know how soon they would be receiving more funds and more accurate payments. This method, however, would provide earlier payments.

D. Appropriating funds for the program a year in advance of the current year, also, would assist local school districts in anticipating the amounts of entitlement and payment which would be available. This would permit local districts to more accurately reflect anticipated receipts from P.L. 874 in their annual budgets.

Question: To what extent do LEAs carry over impact aid funds?

Answer: We have little information that would answer this question.

P.L. 874 funds are deposited along with other resources, including State and local funds, in a general operating account that is used to pay for current expenses in accordance with State and local laws. Once funds have been commingled in this fashion, they tend to lose their identity. Even for those school districts that might receive a P.L. 874 payment just before school closes and carry over an identical amount, it would be difficult to say that the impact aid funds were being carried over. The expenses that may have been planned to be covered by the impact aid payment may have been paid from other funds; the impact aid payment simply reimbursed those other funds making them available for their intended purpose.

Most of our applicants lead us to believe that they have urgent need for the payment to meet expenses for the current year. Carry over balances of impact aid or other funds may be cases of unpaid bills. Not all school districts are required to settle their accounts by the close of the school year. On the other hand, a few school districts specifically request smaller payments to insure no carry over balances. It is difficult to get a true financial picture of a school district without individual analysis.

Question: What percentage of districts receiving impact aid funds use the various methods of determining payments, e.g. comparable districts, groupings, and State and national averages?

Answer: In 1975, 13% of school districts receiving impact aid funds received a local contribution rate higher than the minimums based on individually selected comparable districts, 22% received a higher rate than the minimums based on State groupings, 16% received one-half the State average and 49% received one-half the national average. These percentages were most likely the same or quite similar in 1976. In 1977, however, California and Nebraska requested the use of individually selected comparable districts instead of State groupings. The effect is not precisely known at this time but is estimated to raise the percentage of districts receiving individually selected comparable district rates to 19% and lower the percentage receiving rates higher than minimums based on State groupings to 16%.

Question: What is the role of the HEW regional offices regarding the impact aid program? Are they able to provide assistance in applications, questions of pupil eligibility, and computation of rates? Do you feel there is adequate staff in the regional offices working on this program?

Answer: The role of the HEW Regional Offices regarding the impact aid program is one of providing the Headquarter's Office with information relative to determining entitlements and payments made to local education agencies. The Regional Offices are assigned specific functions necessary to the processing of applications for Federal aid under the provisions of P.L. 874 and P.L. 815, including disaster aid. These include providing technical assistance to applicants, assuring compliance with the laws and regulations, and verifying pupil, financial and other data contained in applications. These activities are accomplished primarily by on-site visits to local education agencies for the purpose of reviewing the data supporting impact aid applications, and reporting their findings to Headquarters. Such reviews, depending upon the sections of the Acts for which assistance is claimed, involve the examination and analysis of parent-pupil survey forms, attendance records, educational programs, school facilities, budgets, financial records, school board minutes, policies and procedures. In addition, the regional program officers provide liaison to and otherwise work closely with impact aid representatives in State Departments of Education.

With respect to P.L. 874 in those instances where SAFA Regional Program Officers have been able to visit local education agencies and make administrative reviews of the records, assistance has been provided to the school personnel relative to applications and pupil eligibility; some assistance on rates can be provided.

The SAFA staff has not been sufficient in number since 1967. Before then, from 40 to 50 SAFA Program Officers were able to keep current with the required workload under Public Laws 874 and 815. Since that time, the staff has been reduced to 24 program officers who now report directly to Regional Commissioners of Education; sometimes duties other than impact aid require more immediate attention. There has been an annual increase in the backlog of cases to be reviewed and less assistance to State and local education agencies in recent years.

Question: As I understand it, the supplemental appropriations bill earmarks 17 new positions for the division administering the impact aid laws. Have you hired the 17 individuals yet and to what responsibilities will you assign them?

Answer: The 1977 Supplemental Appropriations Act identified 17 new positions for the impact aid division. Six positions were for the SAFA Headquarters staff, three for the Field Coordinator's Office and three for the Maintenance and Operations Branch. Eleven positions were to be assigned to the ten Regional Offices. These eleven positions plus filling the 4 existing SAFA regional vacancies would provide a regional staff of 39 Program Officers and 11 secretarial-clerical support persons. Pending the identification of any additional requirements to service applicants under the disaster assistance programs, these numbers should be sufficient. None of the 17 positions has been alloted to the Program at the present time.

Question: What percentage of impact aid funds are retained by LEAs to cover administrative costs? How much is retained for administration at the State and Federal level?

Answer: No percentage is provided to LEAs specifically for administrative costs. As indicated earlier, P.L. 874 payments are deposited, with the possible exception of those attributable to low rent housing children, in general operating accounts that are used to pay current expenses in accordance with State and local laws. Whatever administrative costs are associated with impact aid would be paid from that account. No impact aid funds are provided for administration at the State and Federal levels. At the Federal level, expenses for program personnel are provided in the Office of Education S&E account.

Question: What coordination is there between your division and the O.E. Title I people for administration of the low rent public housing program?

Answer: We have worked closely with Title I people to coordinate the procedures relative to the low rent housing program. A joint directive was prepared in October 1976 by our staff and representatives of the Division of Education for the Disadvantaged, signed by the Deputy Commissioner of Education and sent to Chief State School Officers. It explained the provisions of the law and how applicant districts should proceed in order to obtain funds under this provision of P.L. 874. The document also provided State Title I officials instructions as to procedures to follow in order to permit payments to be made to the local education agencies. Title I officials will monitor the LRH-funded program when they do other reviews of Title I projects in that State and will make reports as required to Title I Headquarter's office. Expenditures of P.L. 874 LRH payments for the specific LRH Title I projects will be reviewed by SAFA Regional Program Officers. In addition, we have met collectively and separately with State and local directors of Title I programs on a number of occasions.

Question: Do you feel it would be feasible to structure the low rent public housing section of the law like the handicapped provision, where districts would receive a base payment for all LRH children and an additional percentage for cases where they are providing Title I type services for these children?

Answer: Although basic support payments were authorized previously for LRH children, none were ever made because of limiting appropriations. In view of the fact that basic support never occurred and that the Amendments of 1974 changed payments from basic to categorical support, it would seem that doubts remain as to the Federal responsibility for the basic educational support of LRH children. Administratively, it would be considerably easier to provide basic support the same as for other Federal children. It would also be easier to provide an extra payment for those LRH children being served in an existing Title I or Title I-type program. One of the main differences between the present two funds, the handicapped and LRH, is that the extra payment for the handicapped child is provided on the basis that the particular handicapped child being claimed is enrolled and participating in a special program while the LRH payment is provided for a special program that does not yet exist; thus, the necessity exists to require adequate documentation on the planned use of the funds. With the assurance that such programs already exist and that particular LRH children are participating in them, there should be little difficulty in providing LRH payments the same as for the handicapped. Separate or special accounting, the same as for the handicapped, would be required to insure that the extra payment was used for specialized purposes.

Question: Since the law does not permit funds to private non-profit educational institutions, handicapped in private facilities could not be counted for handicapped funds. Does this create any problems?

Answer: Under Section 3, we believe that handicapped in private facilities can be counted if a local education agency is sending them to private schools in order to provide them free public education. This is consistent with the Education of the Handicapped Act which requires handicapped children to be provided a suitable education even if that means private schools. There is a problem however in sending handicapped children to private schools under Section 6. Section 6(d) contains specific prohibitions against furnishing education to children in facilities other than those located on a Federal installation or those of a local education agency. Although there is some possibility that we may be able to resolve this conflict, we believe that amending language to update Section 6 in this respect is preferable and would make it compatible with other more recent laws concerning the handicapped. It would also be preferable to amend Section 3 in this respect for the same reason.

Question: What is the current per pupil expenditure at each of the Section 6 schools, and what is the average per pupil expenditures for all these schools?

Answer: The following 1977 per pupil expenditures were approved:

Alabama	Craig Air Force Base (AF)	$1,003.13	
Alabama	Maxwell Air Force Base (AF)	1,129.38	
Alabama	Fort McClellan (Army)	954.44	
Alabama	Fort Rucker (Army)	986.21	
Delaware	Dover Air Force Base (LEA)	1,477.28	
Georgia	Fort Benning (Army)	1,217.46	
Georgia	Fort Stewart (Army)	1,063.82	
Georgia	Robins Air Force Base (AF)	1,306.12	
Kentucky	Fort Knox (Army)	1,219.07	
Kentucky	Fort Campbell (Army)	1,121.60	
Louisiana	England Air Force Base (AF)	1,199.72	
Massachusetts	Laurence C. Hanscom Field (AF - (Elem. - LEA)	2,431.50	
Massachusetts	Laurence C. Hanscom Field (AF - (H.S. - LEA)	309.01	1/
New York	U.S. Military Academy-West Point (Army)	1,947.94	
New York	Coast Guard Base, Governors Island (Trans.)	438.60	2/

North Carolina	Fort Bragg (Army)	1,278.61
North Carolina	Marine Corps Base Camp Lejeune (Navy)	1,311.59
Oregon	Crater Lake National Park (LEA)	1,693.15
Pennsylvania	Erie Coast Guard Station (LEA)	1,535.00
South Carolina	Marine Corps Air Station, Beaufort (Navy)	1,205.44
South Carolina	Myrtle Beach Air Force Base (AF)	1,119.41
South Carolina	Fort Jackson (Army)	1,301.65
Virginia	Quantico Marine Corps Schs. (Navy)	2,010.46
Virginia	Dahlgren Naval Weapons Lab (Navy)	1,705.88
Puerto Rico	Antilles Cons. Schs. (Navy)	2,143.98
Average for all Section 6 arrangements		$1,367.66

1/ Section 6 in this case provides transportation only.
2/ Section 6 in this case provides maintenance of plant and transportation only.

Question: What would be the estimated savings, if the responsibility for the education of all dependents of the Department of Defense employees and persons employed on property administered by the Department of Defense were turned over to the Department of Defense?

Answer: Contrary to savings, the division of the program between the Department of Defense and OE would result in greater administrative expense to the Federal Government and State and local education agencies due to the duplication of effort in several areas. Many school districts now claim Federal properties that would come under both DOD and OE necessitating an application to each agency. Undoubtedly, many school districts presently meet eligibility requirements by a combination of DOD and what would become the OE portion of properties. Such a division would result also in less consistency in areas such as the determination of local contribution rates. There are three Section 6 arrangements that are not related to DOD; thus Section 6 would be a split program as well as Sections 2 and 3.

Before originating the present program, Congress found that 12 different Federal agencies had authority to provide some type of assistance to school districts affected by their activities; there was not any consistent Federal policy; the programs that were in effect were uncoordinated; there was duplication in some instances and exclusion of some schools urgently in need; there were additional administrative costs due to the number of Federal agencies administering such assistance.

At the program's beginning, it was estimated that DOD activities accounted for 75% of the program. Present rough estimates indicate that DOD activities account for close to 50% of the children in the program.

Question: What are the procedures used to determine whether or not a school will come under Section 6? In the past five years, how many have sought that classification, and how many have been approved?

Answer: Section 6 arrangements would be considered for children who reside on Federal property in cases where no State or local tax revenues may be expended for the free public education of such children or it is determined that no local educational agency is able to provide suitable free public education for such children.

In a number of present cases, the original reason for establishing such arrangements no longer exists. However, such arrangements may be terminated only when the Commissioner of Education and the Secretary of the concerned military department jointly determine in consultation with State and local authorities that a local educational agency is able to provide suitable free public education for the children residing on the military installation.

In recent years, a number of concerned officials have sought Section 6 arrangements for their areas including Guam, the Virgin Islands, Plaquemines Parish, Louisiana and Bellevue, Nebraska. No new Section 6 arrangements have been established during the past 5 years.

Question: What is the physical plant like in Section 6 schools other than Ft. Buchanan?

Answer: At the present time the Commissioner of Education has title to school facilities on seventy (70) Government installations, but the operating funds for these schools are provided under Section 6 of P.L. 874 at only 23 of those installations. Operating assistance funds for the remainder is provided to the appropriate local education agency under Section 3 of Public Law 81-874. The condition of schools located on Government installations has been the subject of an in-depth study which is nearing completion at this time.

The conditions that have been found to characterize schools located on Government installations, whether or not operated under Section 6, are fairly similar:

1. A number of these schools were constructed by the Department of Defense before 1950 and subsequently were titled to the Commissioner of Education. Many were built under P.L. 815 in the 1950-1960 decade, some with additions made in the 1960-1970 decade.

2. Many of these facilities were constructed under a limited concept of minimum school facilities. The Congressional guidance offered in 1967 broadened that concept. Also, the educational programs provided at that time differ from those provided today. Consequently, these older facilities often do not include physical space for the implementation of current additional programs, e.g., art, music, remedial reading, speech, special

education, kindergarten, central library and other areas now commonly found in most public schools. As a result, these programs are either not provided, or they are conducted in makeshift facilities such as storage areas hallways, basement rooms, temporary wooden structures or other unsuitable locations.

3. Due to their age and to the limited amount of funds that has been made available for Section 10 of P.L. 815 since FY 1967, many of the Section 6 Schools, as well as others located on Government installations, are rapidly reaching a state of serious disrepair. This condition applies to roofs, heating plants, electrical systems and other components of the facilities. In addition, driveways, sidewalks, parking areas, and related outside areas are deteriorated, some to a considerable extent.

4. Many of the existing facilities neither meet the requirements of the handicapped nor comply with the requirement of the Life Safety Code, as expressed in Code 101 of the National Fire Protection Association.

5. The rapid expansion in the on-post military housing construction program over the past decade, coupled with the shortage in funds for school construction under Section 10 of P.L. 815 is causing many children to be educated in temporary structures such as abandoned hospital wards, barrack buildings, and other unsuitable areas. The situation with respect to Fort Buchanan also exists to some degree at Fort Bragg, Fort Jackson, Fort Campbell, Fort McClellan, Fort Riley and elsewhere.

Question: How much has been used under each authority for disaster assistance for the last five years? Where did the funds come from: direct appropriation, supplemental appropriation, or from another program?

Answer: Over the past five years approximately $22.1 million of the funds appropriated for P.L. 815 and approximately $96.2 million of the funds appropriated for P.L. 874 have been granted to local education agencies for major disaster assistance. Those expenditures, by fiscal year, are as follows:

	P.L. 81-874 Section 7	P.L. 81-815 Section 16
FY 1972	$40,335,249	$11,325,959
FY 1973	25,601,034	4,000,000
FY 1974	10,756,266	1,900,000
FY 1975	6,919,586	3,473,173
FY 1976	12,624,596	1,369,106
	$96,236,731	$22,068,238

Question: Have any impact funds been used recently under P.L. 815 for construction of Section 6 schools?

Answer: No funds have been spent in recent years for the construction of Section 6 Schools other than to perform emergency repairs to existing facilities, although a large backlog of eligible but unfunded applications has been on file for many years.

Question: What is the current estimated total appropriation which would be needed to completely clear the backlog of unfunded construction applications? How many districts in how many States are affected by this backlog?

Answer: It is estimated that approximately $845 million would be needed to fund the backlog of eligible but unfunded applications which have been filed under P.L. 815. That amount is believed to be a realistic estimate taking into consideration current construction costs. Included in the backlog are applications from approximately 476 school districts in 47 states, Guam and Puerto Rico. The estimated backlog, by section of the Act, is as follows:

Section 5	$115 million
Section 10	230 million
Section 14	500 million
	$845 million

Question: Do districts which are on the waiting list for construction funds usually get school construction money elsewhere, or do the school facilities generally not get built?

Answer: In many instances we suspect that the facilities requested in the unfunded P.L. 815 applications do not get built. In some instances the local education agencies acquire temporary portable school facilities when they have sufficient funds to do so. Many school districts across the country have indicated that applications were submitted under the Public Works Employment Act of 1976 (P.L. 94-369) which is administered by the Economic Development Administration. A report of EDA grants awarded under P.L. 94-369 lists 273 grants for the construction of schools and learning facilities. Of that number, there appear to be eight school districts which have established eligibility under P.L. 81-815 in the past.

Appendix 7

Statement on Impact Aid

by Robert H. Michel

Mr. Chairman and Members of the Committee:

I am encouraged that the Subcommittee is holding these oversight hearings on the Impact Aid program, and I appreciate having this opportunity to present testimony.

As you know, I have long been opposed to the Impact Aid program as it is presently structured, and have sought several times, unsuccessfully, to strike funds for various parts of the program during the appropriations process.

Impact Aid is an inequitable, outmoded program which benefits only 25% of our school districts at the expense of the other 75%. I am convinced that if the three-quarters not receiving this money ever fully understood how their tax dollars are being used under this program, they would rise up in arms against such expenditures.

A special study of the Impact Aid program by the Battelle Memorial Institute pointed out many of the inequities in the program, and let me just quote a few of them to you, in the words of the study:

> "The current program overcompensates many districts. Current impact aid payments result in unjustified payments to many

districts throughout the United States. The major sources of these windfalls are:

"Payments that far exceed the costs to the local government of educating Federal pupils;

"Payments to districts that, even without the Federal assistance, are wealthy and well able to support schools from their local sources with a lower tax effort than most districts in the State, and which frequently became wealthy as a result of Federal activities;

"Payments to districts based upon the non-taxability of Federal property where the Federal installation or activity on Federal property (e.g., an aircraft company operating in a government-owned plant, or an oil well on public lands) generates taxes sufficient to defray the education costs of the children of persons working on the property;

"Double payments to districts that receive funds through in-lieu-of-tax payments or shared revenues and again through impact aid. Some of these districts use the revenues to add to their cash reserves and to reduce school taxes;

"Higher per pupil payments to rich districts than to poor ones resulting from the methods used to calculate the rate of payment;

"Payments based upon children who would likely be attending schools in the district even if the Federal Government had never come into the district; and

"Payments that never reflect the economic stimulus that the Federal Government may cause in a community.

"The extent of overpayment is indicated by the following general characteristics of districts with a relatively large percentage of federally connected students by comparison to districts with a lighter Federal impact or no impact at all. The heavily impacted districts tend to have: A lower ratio of pupils to teachers; higher per pupil expenditures; and lower tax rates.

"The effect of impact aid upon many-but not all- of these districts is to allow them to maintain a better level of education with less local effort."

The only part of the Impact Aid program which can be justified is the section providing payments for "A" children, or those children who live on a military base or other federal facility but attend public schools in a community. These families do not pay property taxes to the community but take advantage of community educational facilities, and thus the community does have a right to expect some kind of re-imbursement from the Federal Government.

The catagory "A" section, however, receives only $295.7 million of the $800 million we have appropriated this year for Impact Aid. The remaining $500 plus million goes to sections that ought to be phased out of existence, with the possible exception of some construction funds earmarked for schools serving "A" children.

The largest of these sections is, of course, the "B" children section, which provides payments to school districts for children whose parents work in a federal facility but reside in the community. These parents pay property taxes and local sales taxes and thus contribute to school revenues just like everybody else in the community. There is no justifiable reason why the community should receive special federal payments in these instances.

Let me take a minute to address the argument we usually hear made on behalf of such payments - that these payments are necessary because the federal facilities take certain property off the tax rolls and thus reduce the revenue base. In the first place, these facilities are very seldom imposed on a community. On the contrary, communities are usually standing in line begging for such facilities, trying to outbid each other. We all take pride in announcing new facilities for our districts, and invariably we have been petitioned by our communities to assist them in obtaining one type of facility or another. Why? Because a community knows that such a facility results in economic and status advantages, and they are not thinking of Impact Aid payments when they make such calculations.

The Battelle Institute study addressed this issue, and stated the following:

> "One circumstance of Federal impact occurs when the Federal Government creates a new (or expands significantly an existing) major Federal installation in an area that has little economic growth potential without the Federal activity. Under such a circumstance the Federal Government indirectly provides much better wages for existing residents through both direct employment by the installation and indirect employment in local stores and service operations.
>
> The best examples of this result can be found in the area surrounding the Nation's Capital. Currently the counties surrounding Washington, D.C., are some of the richest in the Nation in per capita income terms. It seems a reasonable speculation that had the Nation's Capital continued to be in Philadelphia, Pa., the Washington, D.C., areas would have a much different income level than at present. At best the small ports of Georgetown and Alexandria might have expanded into significant eastern seaboard ports with some manufacturing. This would indicate that without the Nation's Capital, the economics of

the area might resemble that of Baltimore, Md., or Newport, Va. In fact, because of the relatively high incomes of the higher level Government employees that live in Washington, the associated activities of reporting services and trade associations and the resulting induced activities in restaurants, clothing stores, and real estate, the incomes of Washington area residents are far above those found in either Baltimore or Norfolk. These higher incomes are reflected indirectly in higher property values and thus greater taxpaying capacity in the school districts serving the area. Similar arguments can be made for such places as Huntsville, Ala. (Redstone Arsenal), and the Florida areas near Cape Kennedy. In these cases, assuming no Federal Impact aid, the communities are probably better off in ability to support schools than they would have been if the Federal installation did not exist. Under such circumstances, impact aid serves primarily as frosting on an already quite tasty economic cake."

In other cases, to quote further from the study:

"existing land use and zoning patterns are such that an industrial tax base could not develop in the school district even if industry were interested in locating there. Such districts are clearly suburbs- bedroom communities- and do not normally contain the place of employment of the parents whether that employment happens to be government or industrial.

To such districts, the impact aid payments do represent a potential windfall effect. For example, if the parents of students in Oakwood, Ohio (an affluent suburb of Dayton), were suddenly to switch employment from, say National Cash Register to Mead Papers, the district's revenues would be unaffected, as both industries are located outside of the residential suburb of Oakwood. However, if the parents were to switch employment to the Wright-Patterson Air Force Base (also located outside of the school district) the district would begin to receive about $200 annually in impact aid for each pupil whose parent shifted employers to the Federal Government"

The fact is that communities are not hurt by the presence of federal facilities, and more often than not they benefit because of them. There is thus no good reason why such communities should receive a special federal education subsidy at the expense of communities not fortunate enough, at least, in their own minds, to have federal facilities.

Another portion of the Impact Aid program which should be discontinued is that section providing payments to school districts on the basis of the number of children residing in public housing. This is a relatively new section that should never have been launched in the first place because it completely departs from the original purpose of the Impact Aid program. Public housing is not a federally imposed burden.

The Federal Government simply provides a portion of the financing to assist in the construction of public housing.

In the words of the Battelle Institute study: "public housing should not be blanketed into the Impact Aid program" because "no satisfactory rationale can be developed... on the basis of economic effects of public housing" and such assistance "would establish new inequities among large cities." Such funding can in many cases substantially overcompensate school districts on the basis of even the most liberal projections of a fair in-lieu-of-tax payment. These payments can amount to over twice the possible loss of tax revenues involved in a move from private to public housing.

The key factor, however, is that ESEA Title I already provides funds for most of the public housing children covered under this section. For instance, 15 of our nation's largest cities will be receiving an estimated $39 million in public housing payments from this year's appropriation and at the same time will be receiving an increase of $66 million in Title I allocations, over and above the basic Title I payment they are already receiving. If we were to eliminate the public housing funds, these communities would still receive a net increase in federal funding over the current level.

Public housing impact aid payments, in other words, represent double funding for which there is no good rationale. They have now reached a level of $75 million annually, and could rise as high as $300 million.

Even more unjustifiable than the public housing payments, however, are the so-called category "D" hold harmless payments. This is the category designed to insure the same level of funding that school districts would have received if impact aid funds were not made available for public housing children. In other words, when the authorizing legislation was developed to provide for the payment of impact aid funds for public housing children, the expectation apparently was that the funds to pay for this would be taken out of the regular impact aid payments received by school districts, with the result that most of the districts would suffer a reduction in funding. Hold harmless "D" was thus established to prevent such a loss from occurring.

However, as things have worked out, funds for public housing have not been taken out of the funds allocated for regular impact aid payments. Congress has appropriated funds for public housing children over and above the regular impact aid funds. No district has suffered a loss because of the new payment for public housing children.

Despite this, however, funds have still been appropriated to fund Hold Harmless "D" - to cover a situation which has never occurred. Consequently, these Hold Harmless "D" payments to school districts do not make up for cutbacks - presumedly the intended purpose of hold harmless payments - but instead represent extra bonuses to districts which have no right to such increased payments under the law.

I submit that Congress had never intended for this to happen, but what has evolved is an expenditure that has now reached in excess of $50 million and is still rising. It is rising because Hold Harmless "D", unlike the other hold harmless categories, is not structured to gradually phase down and out. It is tied solely to the level of public housing funding. As funds for public housing go up year after year, the allocation for Hold Harmless "D" will likewise go up. And the projections are that funding requirements for public housing will rise rather sharply. This makes all the more urgent the need for action, for we will be talking about considerably more than $50 million in future years.

In conclusion, let me make the following recommendations:

1. The Impact Aid program should be reduced in scope to cover only Catagory "A" children - those who live on a military base or other federal facility but attend school in the community.

2. Unlike the Carter Administration's original recommendation, I do not believe the Impact Aid sections marked for elimination should all be defunded instantaneously. I recongnize the financial burden an immediate end to funding would place on local school systems who have relied on such funding for many years, and would thus recommend a gradual phase-out. I believe this phase-out

ought to be geared to the percentage that Impact Aid payments make up of the local school budget, so that in those cases where the percentage is small, the phase-out would occur more rapidly than for those school districts where the percentage is larger. In no case, however, should the phase-out period last any more than ten years.

Two exceptions to the phase-out ought to be the public housing payments and Hold-harmless "D" payments. These should be eliminated immediately, since in most cases the loss of public housing monies would more than be made up for by increases in Title I, and since these payments have just recently begun and thus have not been ingrained in the local school budgets.

3. There has been some discussion that we ought to develop some sort of substitute federal funding to take the place of Impact Aid payments. I do not think this would be a wise course of action at the present time. In the first place, we do not have sufficient revenues available at the federal level to be able to afford a new program of federal financing. Secondly, the gradual phase-out of Impact Aid monies would enable the wealthier communities to gradually increase their own share without any significant adverse impact, and the poorer communities would have the reductions offset by the yearly increases in Title I which have been taking place.

I think what we have to keep in mind, too, is that the key to improved education is not increased funding, but a better use of the funds which are available. We have spent a good ten years experimenting with various approaches or methods of educating our young people, and the results of these experiments are now coming in. What they seem to be telling us is that many of the simplest, less costly, and more basic approaches are most effective in improving education, while some of the costly, more exotic approaches are showing very little in the way of accomplishment. I think it's time we end the experimentation and start aggressively promoting the successful, most cost-effective approaches. If our school systems will head in this direction, I think we can improve the educational attainment of our children without the necessity of continually pouring greater and greater numbers of dollars into our school systems. It is a very costly mistake to simply equate the expenditure of funds with educational progress. It's time we look through that smokescreen into the real world of education.

Statement by the Hon. Frank E. Evans of Colorado

Mr. Chairman, I am pleased to have this opportunity to submit a statement in support of school assistance for areas impacted by the federal government.

Although financing of public education is largely a responsibility of local and state government, federal aid to school districts in federally affected areas has been, in my opinion, a needed and proper federal responsibility.

If this program is curtailed, some school districts will be severely affected. As an example, I want to call to your attention the Fountain-Ft. Carson School District near Colorado Springs, Colorado. Approximately 80% of the students in this school district are the sons and daughters of persons either stationed or working at nearby Ft. Carson Army Base. As a result of this heavy impact upon the district, they have been receiving a significant allocation from the federal government under the impact aid program.

Yet despite this federal assistance, the cost per pupil is one of the lowest in Colorado while their student-teacher ratio is one of the highest. In addition, their assessed valuation per pupil is the lowest of any school district in the entire state.

Given these circumstances, it is readily apparent that if the sons and daughters of the federal military and civilian employees at this school district are to have the opportunity for a quality education, it is essential that their school district receive adequate assistance from the federal government, which has so heavily impacted their district.

Mr. Chairman, as part of my testimony, I wish to submit a letter from Dr. Dean Fleischauer, Superintendent of the Fountain-Ft. Carson School District, in which he explains in greater detail his support for and dependence upon federal impact aid assistance.

School District No. 8
El Paso County

FOUNTAIN-FT. CARSON PUBLIC SCHOOLS 400 WEST ALABAMA FOUNTAIN COLO. 80817 PHONE 303 382 5631

May 10, 1977

The Honorable Frank E. Evans
The House of Representatives
Washington, D. C. 20515

Dear Representative Evans:

I am again taking the liberty of contacting you (and Senators Haskell and Hart) to request your combined aid in ascertaining that proper Federal Impact Legislation is formulated and funded by Congress. I have been informed that the Subcommittee on Elementary, Secondary, and Vocational Education (the authorizing subcommittee for Impact Aid) plans to hold 6 days of hearings on Impact Aid on June 21, 22, 23, 28, 29, and 30. In light of the suggestions of the House and Senate Budget Committees to phase out Impact Aid, I'm certain that this will be one of the vital topics discussed by the Subcommittee on Elementary, Secondary, and Vocational Education. Consequently, in preparation of these hearings, I have provided this up-to-date accounting to show the EFFECT that NO legislation (and/or improper funding of the "A" and "B" categories) would have on a VERY HIGHLY IMPACTED School District such as the one which I represent (El Paso County School District #8). I sincerely solicit your continued support for the continuance and the sufficient funding of Federal Impact Legislation. Not only is this support needed by Fountain-Fort Carson, but it is also needed by many of the other highly impacted School Districts located in the State of Colorado.

Hopefully, after you read this letter, you will submit this information to some of your constituents who are on the Subcommittee on Elementary, Secondary, and Vocational Education. By so doing, I'm positive that you will be able to indicate to these Congressmen that Federal Impact Legislation is just as much needed today as when it was originally enacted. Also, the simple fact that by transferring Federal Impact monies to E.S.E.A. Title I (as some have suggested), would in no way provide the financial help needed by the truly highly impacted School Districts. There simply isn't any relationship between the needs of these two programs.

Since Fountain-Fort Carson is undoubtedly the most highly impacted School District located within the State of Colorado, the story which I relate is simply of greater magnitude than that of many of my "neighbors". Nevertheless, many other Colorado School Districts (such as Air Academy, Widefield, Harrison, etc.) would experience similar type financial difficulties with any type of withdrawal of funding for either the "A" and/or "B" categories. Thus, my major concern is for you to be concerned to have Federal Impact Legislation continued and that proper funding be similarly enacted for both the "A" and "B" categories. Without question, the financial burden of a "Military B" category student is much greater than that for a "Civilian B" (because of the implications of the Soldiers and Sailors Relief Act).

Before I outline the effect that Federal Impact Legislation has on El Paso County School District #8, I want to again reiterate that I firmly believe that public education is the responsibility for each State. However, as you well know, the State of Colorado (as well as most other States) does not completely fund public education. Consequently, a portion of my School District's revenue must come from property taxes levied against the private property located within this District. However, since the majority of all property in El Paso County School District #8 is owned by the Federal Government, our tax base is very small and the tax burden is thus shifted to a minority of the total population. Additionally, what can be termed to be the major businesses located in our School District, are those located on Fort Carson (where neither a local and/or a state sales tax can be levied). Consequently, the majority of our federal impact students have parents who are paying no taxes (of any sort) for the support of the public school system which is provided for their children. Thus, without question, Federal Impact Legislation is needed (just as it was when it was originally enacted) to compensate the local School District for the inequity caused by the unfairness and the unequalness of the school support tax system.

To vividly indicate to you what I am referring to -- I would like to quote for you some figures that were recently published by the Colorado State Department of Education (included within the publication entitled COMPARABLE SCHOOL DISTRICT FINANCIAL DATA -- SCHOOL YEAR 1974-75). I am using this publication because it is the most recent available and the one that I used in compiling my Federal Impact Report last fall (for the current 1976-77 School Year). Without question, the dollar amounts reported have been increasing (due to inflation). Nevertheless, the story related by these figures basically remains the same.

	Fountain	State Average
Per Pupil Cost	$936.80	$1,228.49
Pupil Ratio Per Certificated Personnel	23.9	17.5
Assessed Valuation Per Average Daily Attendance Entitlement	$3,370.00	$14,064.00

Without question, these very few figures illustrate very vividly the importance that Federal Impact Funding has on El Paso County School District #8. The cost per pupil is among the lowest of any of the 181 School Districts located in the State of Colorado. The Pupil Ratio (per Certificated Personnel) can only be improved through the practice of hiring additional teaching personnel (which can only be accomplished by additional funding). The Assessed Valuation Per Average Daily Attendance Entitlement is the ABSOLUTE LOWEST of any of the 181 Colorado Public School Districts.

Thus -- these 3 figures really tell the story. Fountain-Fort Carson is spending less per student (11th from the bottom) of all 181 Colorado Public School Districts. Our Pupil-Teacher Ratio is one of the highest of any in the State. Our Assessed Valuation Per Average Daily Attendance Entitlement is the lowest of the 181 School Districts of Colorado. Thus, IN NO WAY can charges be made that the Fountain-Fort Carson Public School District is a FAT CAT because of the abundance of federal impact funds. I believe the story of Fountain-Fort Carson can be substantiated many, many times by the truly HIGHLY IMPACTED MILITARY School Districts which are located throughout the entire nation. Without question, the HIGHLY IMPACT SCHOOL DISTRICT generally spends somewhat less money per student -- has a higher Pupil-Teacher Ratio -- and has a far lower assessed valuation per student when compared to a NORMAL School District of that particular State.

Of all forms of Federal Aid to Education, Federal Impact Legislation is by far the most superior. This is true because of the following:

1. Washington, D.C. does not have any entrenched bureaucracy which is working for its continuance (it annually comes under criticism with the suggestion that it be abolished).

2. A very small H.E.W. Washington staff (under the direction of William Stormer) is charged with the management of the entire system (compare this to the vast bureaucracy employed by almost any other Federal Education program).
3. Federal Impact Legislation is a GENERAL FINANCIAL AID program designed to compensate a local School District for the financial burden placed upon it by the non-payment of taxes by the Federal Government.
4. Federal Impact money is not siphoned off by Federal Bureaucrats, State Department Supervisors, etc. It goes to the local School District (where the need is) and is administered as part of the General Education Program designed by the Board of Education of that particular School District.

I have been the Superintendent of the Fountain-Fort Carson Public School District since 1959. Interestingly enough, the percentage of federal impaction during this period has ranged between 70 and 80%. Usually, approximately 60% of the total school population is classified as "A" category students and about 20% are "B" category pupils. Thus, we are highly impacted. Nevertheless, the annual percentage of federal impact support has been decreasing. This is simply true because the State of Colorado has been increasing its support (as well it should). Currently, the Fountain-Fort Carson School District is receiving approximately $1,200,000 in P.L. 874 funds. It simply is inconceivable to expect the local taxpayers to make up this funding (if Federal Impact Legislation is abolished). The answer is very apparent. WHY should 20-25% of the population SUPPORT the other 75-80%? HOW can the 20-25% pay the cost when 75-80% are paying no taxes for the support of the School System. Keep in mind that the Fountain-Fort Carson School District has the lowest assessed valuation per student of any to be found in the State of Colorado.

Representative Evans -- you are personally well acquainted with the Fountain community. I guess that you would have to say that we are a TYPICAL small town that has had to face the vastness of the problems created by a nearby Army Base. You well know that we don't have any expensive homes -- very few moderate priced homes -- and a preponderance of low priced homes (and a great many trailer parks) that are geared to the pocketbook of the military Non-Com. Fountain has very few businesses (only 2 small grocery stores). This is true simply because it is far cheaper for the majority of our citizens (including the active and retired military) to do their shopping on Fort Carson (in those tax free businesses).

Thus, you KNOW the importance of Federal Impact Legislation to a community and a School District such as El Paso County School District #8. Therefore, may I suggest that you suggest affirmative votes from your colleagues for the continuance of Federal Impact Legislation (and its proper funding). Your past support has been very much appreciated and your continued help in this endeavor will be sincerely appreciated by every patron of our School District. Please feel free to contact me if you have any additional questions and/or comments regarding any phase of Federal Impact Legislation (Public Laws 815 and 874). Thank you.

Sincerely,

Dr. Dean Fleischauer, Superintendent
Authorized Federal Impact Representative
for El Paso County School District #8

DFF/lw

cc: Members of the Board of Education
Dr. Edwin Steinbrecher, Assistant Commissioner (Colorado State Department of Education)

UNITED STATES HOUSE OF REPRESENTATIVES

Subcommittee

Elementary, Secondary and Vocational
Education

20 June 1977

Statement of

Thomas A. Bobo
Assistant Superintendent

Montgomery Public Schools
Box 1991
Montgomery, Alabama 36103

Public Law 81-874--Impact Aid

Mr. Chairman:

I wish to thank you and the committee for the opportunity of speaking to you today concerning the importance of the Impact Aid law for public education. This law, which was enacted in 1950, is as relevant today as it was at that time. The needs by local school systems today are even greater than the needs which existed in 1950, in many cases. Local public schools have pressures and obstacles today that did not exist in 1950. The needs of the existing PL 874 and 815 laws are of such an extent that if we did not have them, they would need to be created by Congress.

This program has been one of changes--changes that have reflected the will of Congress and the people. These changes have been incorporated into the fundamental doctrines that the Federal Government has a responsibility to local school systems to provide funds for education in lieu of taxes.

The study that was authorized by Congress in 1969 by the Battelle Memorial Institute concluded that:

(1) The Federal Government should continue to provide a program of school assistance in federally affected areas. Particularly in small local areas surrounding a major military installation, it is both inequitable and unrealistic to expect local taxpayers to provide for the education of children brought into the community by the Federal Government under circumstances where the community cannot collect significant tax revenues from either the Federal Government or its employees. In some cases, these children receive their education from schools administered directly by the

Federal Government and financed by Impact Aid. In other cases these children are educated by local educational authorities through a combination of local and State funds and Federal Impact Aid funds. In many of these cases if the Federal program were terminated, the children would receive no education at all; in other cases, the quality of education available would be severely reduced with serious consequences for the Federal Government's attempts to recruit employees to such areas and for the quality of education generally. No other Federal educational program reaches the local educational agencies educating large numbers of federally connected children to a significant degree and it is unrealistic to expect state governments to assume the full costs of educating these children.

(2) The basic features of the current program are sound. The basic mechanism of the current program, namely counting the federally connected students in a district, calculating a per pupil payment for the district and multiplying the number of students by the rate of payment, is sound. It is capable of providing a reasonable approximation of the Federal impact upon a district, and is relatively simple to administer by comparison to alternative methods considered.

(5) A new formula that perfectly reflects the economic burden of Federal installations upon local schools cannot be devised. While it is possible to pinpoint extreme cases of overpayments and underpayments to local districts, no formula can ever be developed that precisely calculates payments upon the basis of net economic burden of Federal installations on local schools. This conclusion follows from the fact

that there is no reliable way to determine what a community would have been like had the Federal Government never established an installation in it. Existing economic knowledge and present economic data simply do not provide the adequate basis for correct speculation on, for example, the revenue position of Washington, D.C., area schools in the event that the Nation's Capital had remained in Pennsylvania rather than being transferred to Washington, D.C.

(6) A new formula for impact aid can be devised that will make the Federal payments more closely correspond to the net burden of Federal installations upon local schools. While no perfect formula can be devised, it is possible to improve substantially upon the present program by a series of changes that are described in detail below.

(9) Some payments should continue to be made on 3(b) students, whether living in the same school district as the property upon which the parent works or not. Under some circumstances school districts are burdened substantially through assuming responsibility to educate the children of Federal employees who live in private (taxpaying) homes and apartments within the school districts. This burden exists whether or not the property upon which the parent works is located within or outside the school district educating the child.

(12) The payments for (b) pupils should be 40 percent of the payments for (a) pupils. The current program pays 50 percent of the (a) payments for the (b) pupils. This relationship was based upon then current (1950) data indication that roughly 50 percent of the property tax

revenues in the United States tended to come from taxes upon the place of residence and the other 50 percent from commercial and industrial property. More recent data indicates that on a national average basis more like 60 percent of property tax revenues come from the places of residence.

Many of the recommendations that are suggested in the Battelle report are now a part of the program. The New Entitlement payment structure that went into effect in 1976 brought about many of the recommended major changes in the law. The following is a chart of these changes.

	Category of Student	Entitlement Old Law	Entitlement New Law
I	Super A's 25% + A's	100%	100%
II	Military A's	100%	100%
III	Military A's Public Housing	50%	100%
IV	Civilian A's in State	100%	90%
V	Civilian A's Public Housing	50%	90%
VI	Military B's	50%	50%
VII	Civilian B's in County	50%	45%
VIII	Civilian B's Public Housing	0%	45%
IX	Civilian B's Out of County	50%	40%
X	Civilian A's Out of State	100%	Counted with VII or VIII
XI	Civilian B's Out of State	50%	0%

CHART FOR PAYMENTS SECTION

	Category of Student	% of Entitlement Paid Under Tier I	% of Entitlement Paid Under Tier II	Combined % of Entitlement Under Tier I & II
I	Super A's 25% + A's	25	75	100
II	Military A's	25	65	90
III	Military A's Public Housing	25	0	25
IV	Civilian A's in State	25	63	88
V	Civilian A's Public Housing	25	0	25
VI	Military B's	25	35	60
VII	Civilian B's in County	25	32	58
VIII	Civilian B's Public Housing	25	0	25
IX	Civilian B's Out of County	25	28	53
X	Civilian A's Out of State	—	—	—
XI	Civilian B's Out of State	—	—	—

One can see that major changes have taken place and I believe that with a little study the taxpayer can understand the reasoning for this law.

PL 874 is an easily administered program—one with a low cost overhead. In the Montgomery Public Schools with a population of approximately 36,000, one person does much of the work in the counting process at the Central Office level. I would suggest an increase in the School Assistance in Federally Affected Areas (S.A.F.A.) staff Office of Education in Washington. The Montgomery Public School System depends heavily upon the Washington office and the payments that we receive. The loss of any part of PL 874 would adversely affect to a great extent the educational programs provided for students in the Montgomery Public School System, Montgomery, Alabama.

Thomas A. Bobo
Assistant Superintendent
Special Services

jmm

TESTIMONY BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

BY

WALLACE S. ODOM
ASSISTANT SUPERINTENDENT FOR FINANCE & BUSINESS AFFAIRS
THE SCHOOL BOARD OF ESCAMBIA COUNTY
215 WEST GARDEN STREET
POST OFFICE BOX 1470
PENSACOLA, FLORIDA 32503

ON

JUNE 29, 1977

AT

WASHINGTON, D. C.

TOPIC: "IMPACT AID FUNDING OF THE "B" CHILDREN"

TO

THE UNITED STATES HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

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John Buchanan (Alabama)
Larry Pressler (South Dakota)
William F. Goodling (Pennsylvania)
Shirley N. Pettis (California)
Carl D. Pursell (Michigan)

Mr. Chairman, members of the Committee, I am Wallace S. Odom, Assistant Superintendent for Finance and Business Affairs with The School Board of Escambia County, Florida.

You may be assured that I consider it both an honor and privilege to address the Committee today concerning the future federal funding of impact aid to what is commonly referred to as the "B" children category (Section 3-B) under Public Law 874.

As indicated to you during my testimony on equalization, Escambia County is located in the northwestern part of the state at the very western tip of the Florida panhandle, and is bordered to the north and west by the State of Alabama, and to the south by the Gulf of Mexico. Pensacola is our major city. Our population of some 225,000 persons makes us the 10th largest of the 67 counties in Florida. Each county is one school district. Our county school system has over 48,000 full time equivalent students.

There is in our county (our school district) 420,480 acres of land. According to our county tax appraiser 91¼ miles is waterfront property, of which 35½ miles fronts the Gulf of Mexico, and 55-3/4 miles fronts Pensacola Bay, Escambia Bay and the Florida Intercoastal Waterway. Considering only waterfront property the Federal Government owns 41-3/4 miles, of which 16-1/2 miles fronts the Gulf of Mexico, and 25-1/4 miles fronts Pensacola Bay and the Florida Intercoastal Waterway.

Since the United States Navy moved into our county long before there was any appreciable population growth, the Federal Government naturally established ownership for itself of the very best waterfront land--the "cream of the crop."

The beaches in this part of the state extending from Pensacola to Panama City--a distance of over 100 miles--are known as "The Miracle Strip", so named to describe the beauty of its sugar-white sand. These beaches are not second rate; they are "Grade A Prime". It has often been said by world travelers that they are the most beautiful in the world.

If this is true why haven't the beaches in this area developed on a similar plain to those in South Florida? A map showing how much of this land in Northwest Florida is owned by the Federal Government should provide the answer.

Even so there are 9,752 students in our county (20% of our total student population) upon which we earn impact aid funds. Of this number 777 are classed as "A" children for which we are compensated $468,000 by the Federal Government, while 8,974 are "B" children for which we are paid $1,537,000. We earn another $290,000 under the "hold harmless" provision of Public Law 874. The total amount for which we are to be paid under the 1977 appropriation is almost $2.3 million.

Should the Congress fail to fund the "B" children, it is my understanding we would lose not only the $1,537,000 of the "B's", but almost all of the $290,000 hold harmless funding. If this is permitted to happen, Mr. Chairman, it would have a devastating effect upon our school system. As you can see by Appendix "A" there are only 5 school districts (out of the 67 total school districts) in Florida having a lower revenue rate per student than ours. Our students and teachers don't deserve this treatment. It would literally wreak us in our attempt to provide the education our children deserve. The effect would be: overcrowded classrooms, fewer teachers, custodians, maintenance personnel, counselors, equipment, supplies, buses, etc., and less education.

On a statewide basis you will find that only 26 of the 67 counties in Florida draw impact aid funds which in total amounts to $23.1 million. Of this amount $8.4 million is for the "A's", $12.6 million for "B's", and $2.1 million hold harmless. The effect, insofar as revenue per student in each school district is concerned, can be seen by viewing Appendix "B". Further, by examining Appendix "C" it is obvious that those school districts having the highest concentration of impact aid students are, on balance, the poorest school districts in revenue per student. To delete the "B" funding would, most definitely, compound the problem to a critical level without any hope of relief, while widening even further the disparity gap of equalization.

The "B" funding consists of two general categories: military "B's" and civilian "B's". In Escambia County we have a total of 8,974 "B's", of which 3,857 are military "B's" and 5,117 civilian "B's". Our arguments in justification for the funding for both military and civilian "B's" was clearly presented in a recent response I made to the editor of the Pensacola News-Journal on March 28, 1977. A copy of this communication is enclosed.

Mr. Chairman, I urge the Committee to take the time to read the seven page document. I am confident that it presents fairly all the important aspects of "B" funding.

Mr. Chairman, our problem is one of survival. I do not pretend to understand the monetary problems of our Federal Government, nor in how to solve them. I do sincerely believe, however, that my position in requesting that these funding cuts not be made is justified. I have no doubt that to do otherwise would be of grave consequence.

Thank you for listening to me. I will be glad to answer questions.

APPENDIX "A"
ANALYSIS OF TOTAL REVENUES PER FULL TIME EQUIVALENT STUDENT IN THE STATE OF FLORIDA
FOR THE FISCAL YEAR ENDED JUNE 30, 1976

91,241 FTE = 5%

[illegible]

SCHOOL DISTRICT	NO. OF FULL TIME EQUIVALENT (FTE) STUDENTS	TOTAL REVENUE PER FTE (INCLUDES IMPACT FUNDS)	RANKING	1975-76 APPROPRIATION		TOTAL REVENUE PER FTE WITHOUT IMPACT AID
				IMPACT AID APPROPRIATION	IMPACT AID PER STUDENT	
Washington	3,957	$ 2,246	1	$	$	$ 2,246
Liberty	994	1,855	2			1,855
Collier	13,377	1,726	3			1,726
*Monroe	10,090	1,697	4	1,078,507	107	1,590
Franklin	1,841	1,684	5			1,684
Charlotte	5,854	1,649	6			1,649
Martin	8,361	1,646	7			1,646
Sarasota	25,478	1,645	8			1,645
Hendry	4,205	1,621	9			1,621
Flagler	1,514	1,554	10			1,554
*Glades	1,258	1,553	11	48,819	39	1,514
*Broward	144,979	1,551	12	124,120	1	1,550
Hernando	6,079	1,509	13			1,509
Jefferson	2,457	1,504	14-15			1,504
Sumter	4,653	1,504	14-15			1,504
*Highlands	7,533	1,492	16	59,733	8	1,484
Pasco	22,492	1,489	17			1,489
Lee	28,090	1,487	18			1,487
Wakulla	2,393	1,479	19			1,479
Palm Beach	73,825	1,478	20			1,478
*Dade	274,319	1,456	21-22	1,727,870	6	1,450
*Holmes	3,483	1,456	21-22	14,220	4	1,452
Gilchrist	1,533	1,441	23			1,441
Indian River	9,178	1,437	24			1,437
Hamilton	2,517	1,427	25			1,427
LaFayette	885	1,423	26			1,423
Okeechobee	4,283	1,422	27			1,422
*Pinellas	96,529	1,419	28	583,357	6	1,413
St. Johns	8,585	1,415	29			1,415
Madison	3,457	1,413	30			1,413

APPENDIX "A"
ANALYSIS OF TOTAL REVENUES PER FULL TIME EQUIVALENT STUDENT IN THE STATE OF FLORIDA FOR THE FISCAL YEAR ENDED JUNE 30, 1976

SCHOOL DISTRICT	NO. OF FULL TIME EQUIVALENT (FTE) STUDENTS	TOTAL REVENUE PER FTE (INCLUDES IMPACT FUNDS)	RANKING	1975-76 APPROPRIATION IMPACT AID APPROPRIATION	1975-76 APPROPRIATION IMPACT AID PER STUDENT	TOTAL REVENUE PER FTE WITHOUT IMPACT AID
Manatee	20,907	$ 1,411	31	$	$	$ 1,411
*Leon	23,383	1,402	32	60,529	3	1,399
*Alachua	23,091	1,401	33	118,100	5	1,396
Osceola	7,740	1,390	34			1,390
Suwannee	5,138	1,384	35			1,384
Marion	21,726	1,371	36			1,371
Gulf	2,932	1,367	37			1,367
Lake	17,949	1,363	38			1,363
Calhoun	2,258	1,356	39			1,356
*Hillsborough	118,741	1,355	40-41	2,413,641	20	1,335
*Union	1,548	1,355	40-41	6,791	4	1,351
Levy	4,164	1,353	42			1,353
*Volusia	34,782	1,352	43	128,238	4	1,348
DeSoto	3,661	1,348	44			1,348
*Duval	113,188	1,335	45	2,762,903	24	1,311
Taylor	3,893	1,332	46			1,332
*Brevard	55,919	1,330	47	3,032,902	54	1,276
*Nassau	7,308	1,329	48	46,143	6	1,323
*Columbia	7,458	1,327	49	82,925	11	1,316
Jackson	8,284	1,320	50			1,320
Baker	3,438	1,304	51			1,304
*Walton	4,081	1,303	52	92,088	23	1,280
*Orange	88,202	1,299	53	1,377,896	16	1,283
Dixie	1,909	1,296	54			1,296
*Seminole	32,159	1,292	55	138,523	4	1,288
Citrus	7,347	1,290	56-57			1,290
*St. Lucie	12,638	1,290	56-57	97,047	8	1,282

APPENDIX "A"
ANALYSIS OF TOTAL REVENUES PER FULL TIME EQUIVALENT STUDENT IN THE STATE OF FLORIDA FOR THE FISCAL YEAR ENDED JUNE 30, 1976

				1975-76 APPROPRIATION		
SCHOOL DISTRICT	NO. OF FULL TIME EQUIVALENT (FTE) STUDENTS	TOTAL REVENUE PER FTE (INCLUDES IMPACT FUNDS)	RANKING	IMPACT AID APPROPRIATION	IMPACT AID PER STUDENT	TOTAL REVENUE PER FTE WITHOUT IMPACT AID
*Bay	21,395	$ 1,283	58	$ 1,089,682	$ 51	$ 1,232
*Okaloosa	26,853	1,270	59	3,370,348	126	1,144
Polk	63,465	1,268	60-61			1,268
*Santa Rosa	12,330	1,268	60-61	523,245	42	1,226
*Escambia	48,546	1,265	62	2,145,924	44	1,221
Hardee	4,542	1,257	63			1,257
*Bradford	4,431	1,242	64	36,209	8	1,234
Putnam	10,700	1,240	65			1,240
Gadsden	10,167	1,223	66			1,223
*Clay	14,357	1,190	67	831,859	58	1,132
TOTAL	1,624,829			$ 21,991,619		

81,241 FTE = 5%

5% of 1,624,829 = 81,241 FTE

State Average Revenue per FTE = $1,405

*Denotes districts receiving Impact Aid Funds

APPENDIX "B"
ANALYSIS OF REVENUES PER FULL TIME EQUIVALENT STUDENT EXCLUDING IMPACT AID IN THE STATE OF FLORIDA FOR THE FISCAL YEAR ENDED JUNE 30, 1976

RANKING WITHOUT IMPACT AID	NAME OF COUNTY SCHOOL DISTRICT	NO. OF FULL-TIME EQUIVALENT (FTE) STUDENTS	REVENUE PER FTE WITHOUT IMPACT AID
1	Washington	3,957	$ 2,246
2	Liberty	994	1,855
3	Collier	13,377	1,726
4	Franklin	1,841	1,684
5	Charlotte	5,854	1,649
6	Martin	8,361	1,646
7	Sarasota	25,478	1,645
8	Hendry	4,205	1,621
*9	Monroe	10,090	1,590
10	Flagler	1,514	1,554
*11	Broward	144,979	1,550
*12	Glades	1,258	1,514
13	Hernando	6,079	1,509
14-15	Jefferson	2,457	1,504
14-15	Sumter	4,653	1,504
16	Pasco	22,492	1,489
17	Lee	28,090	1,487
*18	Highlands	7,533	1,484
19	Wakulla	2,393	1,479
20	Palm Beach	73,825	1,478
*21	Holmes	3,483	1,452
*22	Dade	274,319	1,450
23	Gilchrist	1,533	1,441
24	Indian River	9,178	1,437
25	Hamilton	2,517	1,427
26	LaFayette	885	1,423
27	Okeechobee	4,283	1,422
28	St. Johns	8,585	1,415
*29-30	Pinellas	96,529	1,413
29-30	Madison	3,457	1,413
31	Manatee	20,907	1,411
*32	Leon	23,383	1,399
*33	Alachua	23,091	1,396
34	Osceola	7,740	1,390
35	Suwannee	5,138	1,384
36	Marion	21,726	1,371
37	Gulf	2,932	1,367
38	Lake	17,949	1,363
39	Calhoun	2,258	1,356
40	Levy	4,164	1,353
*41	Union	1,548	1,351
*42-43	Volusia	34,782	1,348
42-43	DeSoto	3,661	1,348
*44	Hillsborough	118,741	1,335
45	Taylor	3,893	1,332
*46	Nassau	7,308	1,323
47	Jackson	8,284	1,320
*48	Columbia	7,458	1,316
*49	Duval	113,188	1,311
50	Baker	3,438	1,304
51	Dixie	1,909	1,296
52	Citrus	7,347	1,290
*53	Seminole	32,159	1,288
*54	Orange	88,202	1,283
*55	St. Lucie	12,638	1,282
*56	Walton	4,081	1,280
*57	Brevard	55,919	1,276
58	Polk	63,465	1,268
59	Hardee	4,542	1,257
60	Putnam	10,700	1,240
*61	Bradford	4,431	1,234
*62	Bay	21,395	1,232
*63	Santa Rosa	12,330	1,226
64	Gadsden	10,167	1,223
*65	Escambia	48,546	1,221
*66	Okaloosa	26,853	1,144
*67	Clay	14,357	1,132
	Total	1,624,829	

81,241 FTE = 5%

5,570
139,409

81,241 FTE = 5%

8,515
40,031

*Denotes Districts receiving Impact Aid Funds

APPENDIX "C"
A CONSOLIDATED SUMMARY ANALYSIS
OF APPENDIX "A" AND "B"
STATE OF FLORIDA
FOR THE FISCAL YEAR ENDED JUNE 30, 1976

RANKING WITHOUT IMPACT AID	NAME OF COUNTY SCHOOL DISTRICT	NO. OF FULL-TIME EQUIVALENT (FTE) STUDENTS	REVENUE PER FTE WITHOUT IMPACT AID	IMPACT AID REVENUE PER FTE	TOTAL REVENUE PER FTE	RANKING INCLUDING ALL REVENUES
1	Washington	3,957	$ 2,246	$	$ 2,246	1
2	Liberty	994	1,855		1,855	2
3	Collier	13,377	1,726		1,726	3
4	Franklin	1,841	1,684		1,684	5
5	Charlotte	5,854	1,649		1,649	6
6	Martin	8,361	1,646		1,646	7
7	Sarasota	25,478	1,645		1,645	8
8	Hendry	4,205	1,621		1,621	9
*9	Monroe	10,090	1,590	107	1,697	4
10	Flagler	1,514	1,554		1,554	10
*11	Broward	144,979	1,550	1	1,551	12
*12	Glades	1,258	1,514	39	1,553	11
13	Hernando	6,079	1,509		1,509	13
14-15	Jefferson	2,457	1,504		1,504	14-15
14-15	Sumter	4,653	1,504		1,504	14-15
16	Pasco	22,492	1,489		1,489	17
17	Lee	28,090	1,487		1,487	18
*18	Highlands	7,533	1,484	8	1,492	16
19	Wakulla	2,393	1,479		1,479	19
20	Palm Beach	73,825	1,478		1,478	20
*21	Holmes	3,483	1,452	4	1,456	21-22
*22	Dade	274,319	1,450	6	1,456	21-22
23	Gilchrist	1,533	1,441		1,441	23
24	Indian River	9,178	1,437		1,437	24
25	Hamilton	2,517	1,427		1,427	25
26	LaFayette	885	1,423		1,423	26
27	Okeechobee	4,283	1,422		1,422	27
28	St. Johns	8,585	1,415		1,415	29
*29-30	Pinellas	96,529	1,413	6	1,419	28
29-30	Madison	3,457	1,413		1,413	30
31	Manatee	20,907	1,411		1,411	31
*32	Leon	23,383	1,399	3	1,402	32

RANKING WITHOUT IMPACT AID	NAME OF COUNTY SCHOOL DISTRICT	NO. OF FULL-TIME EQUIVALENT (FTE) STUDENTS	REVENUE PER FTE WITHOUT IMPACT AID	IMPACT AID REVENUE PER FTE	TOTAL REVENUE PER FTE	RANKING INCLUDING ALL REVENUES
*33	Alachua	23,091	$ 1,396	$ 5	$ 1,401	33
34	Osceola	7,740	1,390		1,390	34
35	Suwannee	5,138	1,384		1,384	35
36	Marion	21,726	1,371		1,371	36
37	Gulf	2,932	1,367		1,367	37
38	Lake	17,949	1,363		1,363	38
39	Calhoun	2,258	1,356		1,356	39
40	Levy	4,164	1,353		1,353	42
*41	Union	1,548	1,351	4	1,355	40-41
*42-43	Volusia	34,782	1,348	4	1,352	43
42-43	DeSoto	3,661	1,348		1,348	44
*44	Hillsborough	118,741	1,335	20	1,355	40-41
45	Taylor	3,893	1,332		1,332	46
*46	Nassau	7,378	1,323	6	1,329	48
47	Jackson	8,2[illegible]4	1,320		1,320	50
*48	Columbia	7,458	1,316	11	1,327	49
*49	Duval	113,188	1,311	24	1,335	45
50	Baker	3,438	1,304		1,304	51
51	Dixie	1,909	1,296		1,296	54
52	Citrus	7,347	1,290		1,290	56-57
*53	Seminole	32,159	1,288	4	1,292	55
*54	Orange	88,202	1,283	16	1,299	53
*55	St. Lucie	12,638	1,282	8	1,290	56-57
*56	Walton	4,081	1,280	23	1,303	52
*57	Brevard	55,919	1,276	54	1,330	47
58	Polk	63,465	1,268		1,268	60-61
59	Hardee	4,542	1,257		1,257	63
60	Putnam	10,700	1,240		1,240	65
*61	Bradford	4,431	1,234	8	1,242	64
*62	Bay	21,395	1,232	51	1,283	58
*63	Santa Rosa	12,330	1,226	42	1,268	60-61
64	Gadsden	10,167	1,223		1,223	66
*65	Escambia	48,546	1,221	44	1,265	62
*66	Okaloosa	26,853	1,144	126	1,270	59
*67	Clay	14,357	1,132	58	1,190	67
	TOTAL	1,624,829				

*Denotes Districts Receiving Impact Aid Funds.

THE SCHOOL DISTRICT OF ESCAMBIA COUNTY

CHARLES W. STOKES
Superintendent of Schools

SCHOOL BOARD MEETINGS
Second Wednesday 1 30 P M
Fourth Thursday 7 00 P M

ADMINISTRATIVE OFFICE
Telephone (904) 432 6121
215 WEST GARDEN STREET
PO BOX 1470
PENSACOLA, FLORIDA 32597

TO: Mr. J. Earle Bowden, Editor
Pensacola News-Journal

FROM: Wallace S. Odom, Assistant Superintendent for Finance and Business Affairs Wallace S. Odom

DATE: March 28, 1977

Escambia County's public schools were given another financial jolt on March 15--this time through an editorial published in the Pensacola Journal which took the position that most ($1.5 million) of the $2 million the school system receives in federal impact funds should be eliminated.

Such a position is shocking to a school system that has had to live with battered budgets, a politically imposed State funding index applicable only to education, and a constant shortfall of revenue for the past several years.

To attack federal impact funding, when it is so desperately and justifiably needed, is unconscionable. Already this year, Escambia's public schools have been cut over $2.4 million due to the controversial "cost-of-living" funding index which was forced through the State Legislature in 1973 by the non-compromising and vote-rich South Florida delegates. Now, for our own local newspaper to try to influence its subscribers that another $1.5 million cut is appropriate, sadly indicates a lack of understanding and concern for the operation of our schools.

We acknowledge that federal impact funds has been the subject of several newspaper editorials of late--as recently as February 24, by the Washington Star entitled "Schools--the Impact of No Impact", and on February 28, by the Washington Post entitled "Porkbarrelers' Dream".

In none of the editorials (including that of the Pensacola Journal), various news reports, or the budget justification of the Ford or Carter Administrations is there a substantive examination of the Impact Aid program on the merits.

For this reason, it is time to review the program as it really is--not as its opponents describe it. The opponents have followed the lead of the Office of Management and Budget (OMB) in Washington without looking behind that agencies statements to discern their truth of reasonableness; for, if they had done so, they would find that the OMB has not exhibited any knowledge of school finance, nor any understanding of the current Impact Aid law as revised in 1974.

Impact Aid was first authorized by Congress in 1950 to fit into our system of school finance in order to compensate school districts for loss of revenue and increased costs resulting from federal ownership of real property, and to provide at least a minimum level of education for children of federal employees.

Except in unusual circumstances the law does not go through the process of determining actual amounts of revenue lost because of non-taxable federal property, but presumes those losses to be compensated by making provision for payments based on the number of federally connected children for whom a local school district provides free public education.

Most school systems have as a primary source of revenue the local property tax--a tax on all property whether used for residential or for business purposes. A little more than half of school property tax revenue is derived from taxes on places of employment and a little less than half is derived from taxes on residential property.

In line with this system, the Impact Aid law compensates school districts for loss of revenue from non-taxable properties owned by the Federal Government and used as a place of federal employment or as living quarters for federal employees at a rate using local costs of educating public school children.

Stated briefly, this formula classifies all federally connected children into two major categories:

(a) those children who both live on federal property and reside with the parent who works on federal property ("A" children), and;

(b) those children who either live on federal property or reside with a parent who works on federal property ("B" children).

In other words, an "A" child is a federally connected child behind whose public education there is no local property tax, while a "B" child is one behind whose education there is less than one-half the normal property tax.

To determine the amount to which a school district is entitled there is a calculation of the cost of education for that school district from local sources. For "A" children, generally, the entitlement is 100% of the amount calculated, while that for "B" children is 45% to 50% of the local cost. Escambia's entitlement for "A" children is, therefore, $646.20 each. For "B" children the entitlement is $290.79 each if the parent is not in the uniformed services, and $323.10 each if the parent is in the uniformed services. The Pensacola Journal editorial erroneously stated that the funding for "B" children is only "slightly less" than the funding for "A" children. The editorial further stated that the funding for the "B" children should be eliminated. We would take exception to that position.

The Escambia school system is entitled to receive about $450,000 for "A" children, and about $2,415,000 for the "B" children. But what the school system is entitled to and what it eventually gets is a different matter--we usually end up getting funding for about 90% of the "A's", or $405,000, and only about 60% of the "B's", or $1,450,000. Add to this the $302,000 we received this year under a hold harmless provision for inadequate funding, and the grand total is over $2.1 million.

This brief explanation is necessary because those who oppose the program never explain why it exists or what it is intended to accomplish; nor do they contend that it does not accomplish its purpose efficiently.

The reasons given in the Pensacola Journal editorial that "B" funds should be eliminated seem unfair. Let's face at least a few facts--federally owned property in Escambia County does occupy a tremendous land area that, unless there is a complete close-out of the military base, is forever exempt from the property tax roll. Incidentally, this would include over twenty miles of prime beachfront property.

Although the military occupies a large land area it does not have the facilities to house all the families for the 3,857 "B" children attending our public schools whose parents with which they live off-base (on non-federally owned property) are in the uniform services. Due to limited on-base housing only 777 "A" children live on the base with their parents and attend public schools. Then there are the 715 "B" children living in tax-exempt federally owned subdivisions whose parents are not connected with the uniformed services in any way, yet attend our public schools. Who is suppose to foot that bill for their education?

In recent years the taxpaying public and local newspaper has been critical of the school system asking for more and better services with less taxes (whether it be property taxes, income taxes or sales taxes). That philosphy never has and never will work. School systems cannot be run adequately on pocket change. The old adage "you can't buy nuttin' for a nickel any more" most certainly also applies to the operation of our schools. Our school system will be what the public wants it to be. One thing that is essential is the support from the community and media to try their best to help our school system survive--not tear it apart dollar by dollar.

The suggestion in the editorial that the "slack" would have to be taken up with additional State or County money if the "B" funding were eliminated is a popular and convenient thing to say, but it is pure fantasy. We are already at the maximum eight mill limit allowed under State law with the serious realization that the Legislature will decrease it even further during the '77 session. In addition, the Legislature has us so pinned down due to the cost-of-living index invented and forced upon us by South Florida Legislators and applied to the formula for funding education to favor their own school districts it would take a herculean effort to free the financial chains that our Escambia school system has had to live with for the past several years.

The factors that go into determining this index have little to do with the cost of educating children (cost of alcoholic beverages, entertainment, ambulance fees, etc). It is purely a political maneuver to place the vote-rich South Florida counties in the most optimum position to receive the maximum dollars for their own schools. Suits against this index have been filed by forty-four school districts in Florida including Escambia County. Until final determination in the courts, we will have to live with the index applied to Escambia, which this year meant a reduction of $2.4 million in State funding of our county's schools.

Insofar as federal impact funds are concerned, there has been no major challenge on Capitol Hill to either the purpose of the program, or its efficiency. It is, therefore, necessary to examine statements or arguments made to justify our position to the program to see whether that opposition is based on the merits of the program or a desire to cut the program for budgetary or other reasons without regard to its merits as follows:

1. The most recent and persistent statement made against Impact Aid is that, even though there is a reason for compensation for "A" children, there is none for "B" children.

   This is an argument advanced by the OMB and its predecessor, the Bureau of the Budget, since 1969 in the budget estimates submitted to the Congress, but never in the form of a serious legislative proposal. The sole justification for the argument is an unsupported claim that since taxes are paid on the homes in which the children reside, there is sufficient local revenue for their education. This argument has been rejected as unsound on its face. It totally ignores the fact that more than one-half of the property tax revenue toward a child's education is supported from property taxes on places of employment.

However, if that argument were sound, why has not OMB also proposed that payments for "A" children be cut in half? The OMB has not had the intellectual integrity to make such a proposal, because to do so would literally close many school districts down and thus demonstrate quite clearly and painfully the need for compensation for both employment sites and residences.

2. The Office of Management & Budget has urged that payments for "B" children be eliminated because some payments are made to "wealthy" suburbs.

This argument is advanced by using a few atypical school districts as examples of where the funds go rather than why they are paid--an argument more appropriate for a grant program than an entitlement program. Impact Aid is an entitlement program much like Social Security and Veterans Benefits. Impact Aid payments are not grants in the traditional sense; they are paid on the basis of entitlements designed to compensate school districts for loss of revenue by reimbursing them for part of the cost of educating federally connected children based on the resources available for educating non-federally connected children.

Wherever federal property is owned, there is a loss of revenue to school districts. If federal property were taxed at regular rates, school districts in more affluent areas would receive greater revenues than they do under the present system. Indeed, many school districts would prefer taxing federal property to the present reimbursement approach.

Even though the program should not be judged on the relative wealth of the recipient school districts, it should be pointed out that, on the average, Impact Aid districts have a smaller tax base behind each child than school districts which do not receive Impact Aid. For instance, the dollars raised per mill per student in Escambia County is $34.27, in Brevard County $38.58, in Santa Rosa County $29.76, and in Okaloosa County $21.88; all of these counties are Impact Aid counties.

When one compares these amounts to counties like Charlotte, Collier, and Palm Beach, which receive no impact funds one may be surprised to find that the dollars raised per mill per student in Charlotte County is $124.04, in Collier County $123.31, and in Palm Beach County $84.12. This analysis reflects quite a difference in dollars not only per student, but per classroom, and is one more point in justification of Impact Aid funding.

There are large numbers of very poor school districts which are absolutely dependent upon Impact Aid to maintain operations--but these districts are never used by OMB as subjects for evaluating the program. It is the proximity of the Washington suburbs to OMB that created the "wealth" argument--an argument that, even if it has no merit, has caused districts in the Washington metropolitan area to suffer severe losses under the 1974 revisions in the law.

The 1974 revision of the Impact Aid law, among other features, reduced the total amount of entitlements under the program by about $200 million. The Washington suburbs were hardest hit. Now, children whose parents work in the District of Columbia, but who live in the suburbs, are not counted in the computation of basic entitlements. Neither can Virginia schools count children whose parents work on Federal property in Maryland; and, the amounts were greatly reduced for Alexandria and Fairfax children in Virginia whose parents are federally employed in Arlington. Therefore, Fairfax County should no longer be used by OMB as a whipping boy for the program, for which privilege Fairfax residents have had to pay dearly out of their own business and residential pockets. Even so, after that heavy damage through the 1974 revision to the law, OMB still abuses Fairfax County without regard for, or in spite of the law.

3. Federal activities improve the local economy: therefore, Federal Impact Aid payments to school districts are not necessary.

This argument is not advanced by those who know the methods by which public schools are financed. A healthy local economy may result in greater collections in income and sales taxes; however, this has only a minimal effect on increased collections from real estate taxes on non-federal property--the source of revenue for independent school districts. Generally, schools do not have access to revenues from federal income taxes and state sales taxes at the local level.

In 1974 the Congress found that school districts do get a small amount from non-property sources, and therefore, revised the entitlement formula accordingly by reducing all non-military entitlements by 5%. The effect and purpose insures that the "improvement of the local economy" argument is no longer valid.

Finally, it should be noted that HEW Secretary Califano issued a statement with the submission of the Carter revisions of the Ford budget estimates for fiscal year 1978 in which he said that the new Administration had not had time to review each item in the Budget, but that they would continue to examine individual items during the appropriations hearings process.

It is hoped that during that examination all concerned would keep these points in mind concerning Impact Aid:

(a) The persons who fought Impact Aid as budget examiners at OMB for the Nixon-Ford Administration are still there following the Nixon-Ford principles, making the same recommendations. The 1976 election did not change that.

(b) The authorizing legislation for Impact Aid was completely revised in 1974. Although there is a great deal of disagreement with some of the features of that legislation as revised, it offers some innovative techniques for improving the program by more fine-tuning. The new Administration should look at the new law and develop its own program rather than rely on the Nixon-Ford approach which has been repeatedly rejected.

(c) The President has proposed that all Federal programs be subjected to a new justification each year. Impact Aid would survive such a justification if the time were taken to conduct it. If Impact Aid is examined on the basis of its accomplishing its legislative purpose efficiently its merits would speak for themselves.

The one area Congress cannot shortchange is education. In the past the Administration continuously underminded the Impact Aid program through inadequate budget requests, vetoes, revisions, stalling payments, and even bungling computers. In effect, the Administration relegated education to the White House basement. Our hope now is that the Carter Administration does not continue in that direction. And, let us also hope for a unified effort in our community to fight for the funding of our schools in Escambia County.

Finally, Impact Aid is no more "a porkbarrel" than the federal payment to the District of Columbia. The federal payment to the District reimburses the city for revenues lost because it can't tax federal property and because of costs the city incurs from federal activities. That's the purpose of Impact Aid, too. The problem, apparently, is that Impact Aid is tied to schools. Is this fair?

WSO:rh

cc: Members of the State Legislative Delegation

NEED FOR PUBLIC LAW 874 MONIES IN CHICOPEE SCHOOLS
CHICOPEE, MASSACHUSETTS

Position Paper submitted by

Dr. John M. Luke, Superintendent of Schools

Mr. Chairman and Members of the Committee:

We appreciate this opportunity to present written testimony on behalf of the Chicopee Public Schools, Chicopee, Mass. I am John Luke, Superintendent of Schools of Chicopee Public Schools, the western Mass. community which embodies Westover Air Force Base, an area greatly affected by Impact Aid Laws.

I believe that Congress has been both wise and fair in authorizing and financing P.L. 874 and P.L. 815 since 1950 and the community of Chicopee has received direct benefit from this overt act of responsible action. The United States took by condemnation 3,140 acres, or five square miles of land, situated in Chicopee for the purpose of constructing an airfield known as Westover Air Force Base. The taking of this land resulted in reducing the water supply, the assessed valuation, and income to the City, and necessitated an expenditure of $2,000,000. by the City to provide a substitute supply of water from the Quabbin Reservoir 15 miles from the City.

As a result of this Federal activity, the impact of Federally connected children since 1950 in Chicopee schools created problems in providing new buildings, skyrocketing budgets, and increased taxes.

The increase in population did indeed bring growth to the City. New taxable dwellings in Chicopee increased from 6,700 in 1950 to 10,955 in 1962. However, fifty percent of these homes were purchased by personnel connected with the Federal installation. School population increased from 5,105 in 1950 to 11,616 in 1962, of which 3,504 were classified as 3(a) or 3(b) children under Public Law 874. Thus, Chicopee exemplified the type of community who suffered losses of revenue from non-taxable properties and education costs of children of federally employed parents. However, current proposals by Administration are inadequate alternatives for the future. The philosophy and purposes of that law (that government should not place an undue burden on a local school for the cost of education brought about by federal activities) will indeed be negated by such an act.

The budget of the School District of Chicopee, Mass. has been greatly influenced by P.L. 874 monies for more than 20 years. Serving a public which has included Westover Air Force Base, these funds have followed a trend from $241,858. in 1956 to a peak of $1,597,610. in 1965. Throughout the 1964-74 decade, the total P.L. 874 allocation to Chicopee has remained in excess of one million dollars annually. This has represented a significant portion of the local school annual budget during these years, as is indicated on Chart #1. Chicopee, therefore, has truly been one of those communities on whom the residence of federal employees has had a significant impact.

If the Impact laws have truly been created to serve not only the children affected by categories A and B, but also to compensate the local school district for monies lost through non-taxable properties, then our current situation shows the inadequacies of the proposed revisions and alternatives for the program and the need for continued relief.

For example, the shift of military personnel from Westover Air Force Base has altered the allocation due to Chicopee from $1 million in 1973 to $706,060. in 1976. Even with this drastic reduction, the local school budget would be hard pressed to absorb an even greater loss, since approximately 8% of the school population of Chicopee remain eligible for P.L. 874 funds. The withdrawal of these monies would also represent a further reduction of 8% in anticipated revenue to meet the local school expenses, and this would be a burden which would place the budget in deficit.

It has been suggested that these P.L. 874 funds may be reallocated under Title I. This would not provide an adequate solution for the Chicopee School District, however, due to the fact that Title I guidelines specify a target population and remedial programs which would not in most cases, serve the needs of the students for the reasons P.L. 874 was created and intended.

The School Committee of Chicopee is currently faced with the very difficult task of cutting back school expenses due to the loss of more than 2,000 students who were dependents of Westover Air Force Base military personnel. Our situation is simply that, for the past 20 years, the Chicopee school population was inflated with these students. Chart #2 exemplifies enrollment trends. During the time of their peak enrollment, it was necessary to expand facilities and the P.L. 874 monies helped to absorb these operating costs. Mortgages are, however, set over long periods of time and we are now faced with reducing this indebtedness without the benefit of P.L. 874 funds. As school costs escalate in all districts and cutbacks become necessary in all school districts, Chicopee must cut back in staff and operating costs which cannot be reduced in as rapid a manner as the population has dropped. We are indeed a community on whom P.L. 874 has had great impact. The continuation of these funds to our area is essential to the maintenance of solvency for the Chicopee School District. To withdraw these funds from their intended purpose would place the educational program for Chicopee students in great jeopardy.

In conclusion, Congress has repeatedly endorsed Category B funding in Impact Aid programs. This Aid is justified and the level of funding must be restored and authorization extended. The federal government indeed does have a responsibility and, to me, the integrity of the government in meeting this obligation is paramount.

I respectfully request that this statement be inserted into the minutes of your hearings.

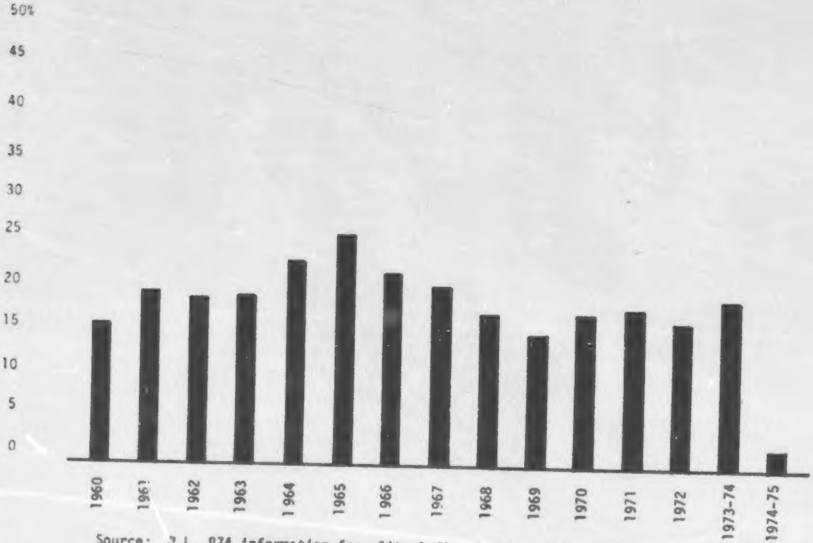
Respectfully submitted,

John M. Luke
Superintendent of Schools
Chicopee, Mass.

Enclosures: 2

Chart 1

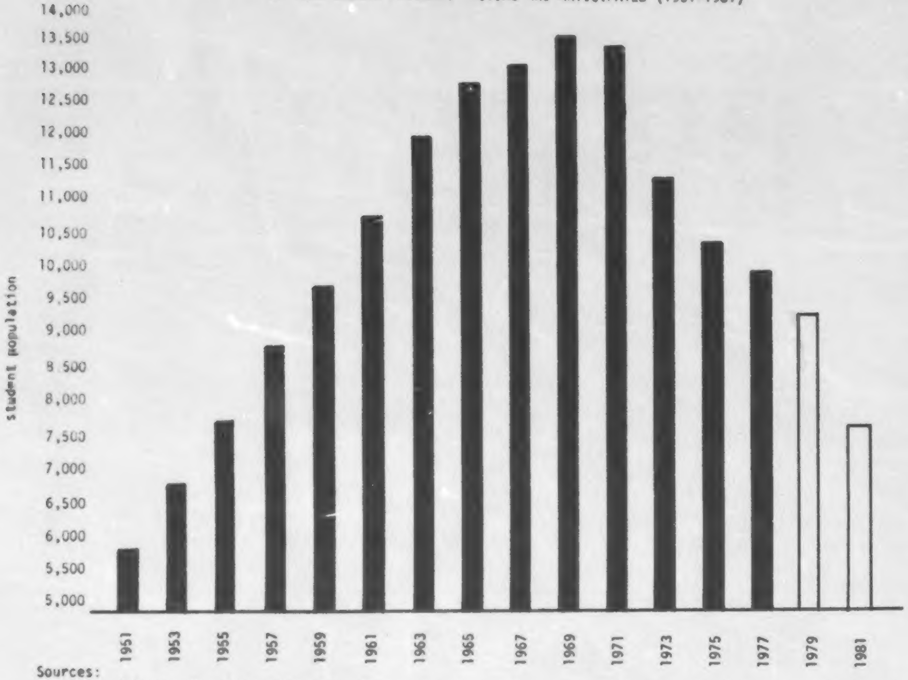
EFFECT OF DECLINING ENROLLMENT DUE TO WESTOVER AIR FORCE BASE AS INDICATED BY PERCENTAGE OF TOTAL SCHOOL BUDGET FUNDED THROUGH PUBLIC LAW 874



Source: P.L. 874 information from City Auditor's Financial Statement, June 30, 1975, pp. 65-66

Chart 2

30 YEAR GROWTH PATTERN: ACTUAL AND ANTICIPATED (1951-1981)



Sources:

Actual - "Enrollment" Charts, Annual School Reports, City of Chicopee, 1966, 1972, 1974-75 (submitted for printing)

Projected - New England School Development Council Projections

TESTIMONY BEFORE THE ELEMENTARY,
SECONDARY AND VOCATIONAL EDUCATION
SUB-COMMITTEE OF THE HOUSE
EDUCATION AND LABOR COMMITTEE

CONGRESSMAN CARL PERKINS, CHAIRMAN

JUNE 29, 1977

PAUL T. BRIMER
DIRECTOR OF FINANCE
THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

CATEGORY B

Mr. Chairman and Members of the Committee:

The possibility of loss of Federal aid to impacted areas is a constant threat that school people live with daily in Brevard County, Florida. The area grew rapidly through the decades of the 1950's and 1960's primarily due to the John F. Kennedy Space Center, Patrick Air Force Base and Federal contractors connected with the Space Program. Brevard County recognizes the honor of being selected as a site for these Federal installations. However, the rapid growth created strains on governmental services supported by the property tax disproportionate to the land available to tax. The school system would have had difficulty surviving without Federal aid to help offset deficits between property tax income and demands evolving from the aspiration of those who came to work at these facilities. The trend is now reversed and Brevard County is experiencing a decline in students each year. As a result of expanding the categories, impact funding has also decreased over the years. The presence of large quantities of tax exempt Federal land continues to place a burden on the ability to support education through the property tax. Florida restricts the taxing ability of the school districts to 8 mills. This can be increased to 10 mills with the vote of the people.

Brevard County, unlike some areas of the nation, has within its geographic boundary both the exempt property and the people who work on that property.

Only 31.8% of the land in Brevard County is non-exempt for property taxation. This amounts to a total taxable assessment of

$2,021,157,913 - or 37.1% of the total assessment of $5,454,705,223. In comparison, the Federal holdings comprised an assessment of $2,918,515,225 - or 53.5% of the total assessment for fiscal year 1976. In short, assessment of Federal property is greater than all non-exempt property assessment from which income is derived to support schools. Local yield of 7.75 mills was $14,880,775 in the 1976 fiscal year. Had the Federal holdings been taxable, an additional $21,487,568 for a total of $36,368,343 would have been available. This amount must be reduced by the local effort required to participate in the Florida Educational Finance Program. The additional money available would have been approximately $5,400,000. We have received approximately $3,000,000 in impact aid for the 1976 fiscal year. It did not replace the loss, but it did help.

A common misconception concerning impacted areas is that the Federal aid realized from said areas places the school district in a f[illegible]able competitive position when compared to other school districts in the State. The current fiscal year 1977 expenditure per student for Brevard County, Florida is $1,266; the National Average is $1,615 for the same period. Brevard County received $217 per eligible impact student in fiscal year 1976. An additional loss of revenue that should be considered is that the sales by the commissary and Base Exchange at Patrick Air Force Base are not subject to Florida State sales tax.

The ADA count of students in Category 3B, 2A (Civilian live-off, work-on) was 10,008 in 1976. This generated approximately $1,500,000 - or 50% of our impact funds for 1976. The elimination of all Category B funding ($1,800,000 - or 60% of total funds received) could result in a lay-off of 152 teachers and a reduction of funds available for students in the amount of $40.00 per student. The $3,000,000 received from Public Law 874 is slightly less than the amount expended for utilities in Brevard County after an energy conservation program was instituted. In summary, the citizens of Brevard County have continued to strive for equal educational opportunity for all children, though the burden was heavy.

Fairborn City School District

306 East Whittier Avenue
Fairborn, Ohio 45324
513-878-3961

Administrative Assistants
John W. Haynes
Pupil Personnel
Howard Cross
Elementary Education

Robert R. Ritchie
Superintendent

Administrative Assistants
William S. Edler
Business Affairs
Allen H. Knisley
Personnel and Instruction

COMMENTS ON PL874

Since 1967 our Fairborn City Schools have not received the full payment for our entitlement under PL874. Through the actions of Congress we have continued to receive less money through the Authorization Procedure and the Appropriation Procedure.

The Administration as well as various members of the media continually attack PL874 as a "Pork Barrel" and want our Federal Government to "save" 400 million dollars. Deaf ears are turned toward the logical structure of PL874 and the basic understanding that Wright-Patterson AFB itself removes a large portion of our potential tax base. This single concept justifies the payment for Category B pupils because the formula payment of one-half a Category A pupil which was developed by the Congress.

In two separate studies, funded by the Congress, both the Stanford report and the Battelle report maintained the justification of the payment for Category B pupils. These studies were thorough and professionally done. It would seem then, that the Congress might rely on these findings.

As recently as the 1974 Education Amendments adjustments were made in a priority of payment for Category A & B pupils. Part of the rational followed can be related to the Battelle study. Each year our percentage of payment slips. The Congress has wisely created a new budget year so many agencies can have early knowledge of their allocations. Past history tells us the Congress sees the sound logic of PL874 and has periodically made revisions; however, to completely eliminate the B Category pupil will only lead to more severe problems.

Should our Fairborn City Schools be denied payment for Category B pupils it would mean some $459,000 loss or about 3 mills additional on our tax base. Greene County, Ohio ranks about third in the State of Ohio for tax exempt property, so we have only one source for replacement funds, the "home owner". With the loss of $459,000 and no replacement on the part of the voters we would have to dismiss staff because that is where the bulk of our money is spent.

In our general area two school districts have attempted additional millage on the ballot ten times each with little success and both of those districts receive Category B funds.

There is no way Title I money could be substituted for PL874 funds. Title I is categorical and for good reason. There is no relationship between Title I, ESEA, and PL874 from a philosophical or conceptual viewpoint. To intermix these funding concepts would create havoc for schools.

All schools have suffered a staggering loss trying to live with new Federal and State mandates in Special Education, Due Process, and Title IX, to name a few. Congress passes these laws yet provides few dollars to implement them. On top of this the Office of Education creates additional problems through trying to withhold money Congress approved or through broad interpretations of regulations not intended by Congress. All public buildings face a huge financial outlay to conform with the proposed building requirements or remodeling to assist handicapped individuals.

Hopefully, the Congress will again review the sound logic upon which PL874 is built. The Federal government has an obligation to pay schools in lieu of the loss we incur due to the non-taxable property required to operate a large base such as Wright-Patterson. We provide all the children of Fairborn a good education and with the possible loss of Category B money this can only have an effect on all the children.

HUNTSVILLE CITY SCHOOLS
SHELBY COUNCE, SUPERINTENDENT
P O BOX 1256 Telephone: 205 539 2111
HUNTSVILLE, ALABAMA 35807

Bellamy Award *Centennial*

The Subcommittee on Elementary, Secondary and
Vocational Education
U. S. House of Representatives
Washington, D.C.

SUBJECT

School Assistance in Federally Affected Areas
Maintenance and Operations (PL 81-874)

1. I would like to respectfully request your consideration of the following remarks regarding the overall program of assistance in federally affected areas and the particular importance of support to school systems for children in category 3-B civilian.

2. The importance of PL 81-874 assistance to school systems with a large concentration of federal activities within their jurisdiction cannot be overstated.

3. Federal assistance to this school system under this program is about $2,000,000 annually and represents about 7% of the annual budget. This can be translated into approximately two hundred (200) teacher units. Pupils from category 3-B civilian makes up about 74% of the total population for which assistance funding is received.

4. As you are well aware, the concept and purpose of such assistance is in lieu of certain property taxes and is designed to augment current operating expenses of LEA's affected by the impact of federal activities.

5. In recent years local LEA's are constantly having to defend the need and the basis for impact money; we especially have to restate and re-justify the necessity for assistance for category B civilian students.

6. Those who would curtail or eliminate assistance for this pupil category reason that "because families of such children pay property taxes, LEA's are not entitled to such assistance". This type of rationale would lead one to assume or conclude that no business or commercial

firm should pay real estate taxes since their employees pay taxes on their residence. Should this concept or reasoning be employed throughout the spectrum of our taxing scheme, the present base for taxation would be drastically altered because approximately one-half of the tax base in this country is from nonresidential property.

7. I do not believe that the philosophy presented by opponents of assistance to school districts is valid; I do not believe that this philosophy represents the will and intent of the citizenry and of the Congress. I do believe:

   a. That it is just and proper for business and commercial firms to pay real estate taxes.

   b. That it is just and proper for federal business-type operations to render assistance to LEA's as "in lieu of taxes" to support operations which serve citizens within their local jurisdiction.

   c. Should it be the desire of the Congress to eliminate such assistance to LEA's, it should at the same time, remove present exemptions and provide a means for local governments to impose necessary taxes to provide required services.

8. For those school systems with expanding federal activities, it is virtually impossible for local communities to meet the demands of a large scale build-up without outside assistance. Once stabilized, the permanent loss of the property tax base curtails the ability of local governments with regards to raising revenue to support on-going operational demands. To curtail or eliminate support to LEA's in the face of spiriling operational cost would impose insurmountable hardships upon many school districts throughout the country.

9. In conclusion, it is my opinion that the original basis for aid to local school districts under PL 81-874 has not changed and that the need for such aid is more prevelant today than at any other time.

May I respectfully request that you give serious consideration to strengthening support to LEA's rather than curtailment of any of the provisions as now enacted.

Respectfully yours,

V. M. Burkett
Assistant Superintendent

Written testimony by
J. E. Sutton, Superintendent Emeritus
Midwest City-Del City Schools
Midwest City, Oklahoma 73110
Before the House Subcommittee on Elementary, Secondary and Vocational Education

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to present written testimony in behalf of some 400 Impact Aid School Districts in Oklahoma.

I am J. E. Sutton, Superintendent Emeritus of the Midwest City-Del City Schools, Midwest City, Oklahoma. I believe that Congress has been both wise and fair in authorizing and financing P.L. 874 since 1950. However, current proposals by the Administration are inadequate to maintain the levels of funding needed by the education programs for 1978. The authorization bill which you consider must eliminate the inequities. It may be wise to change the name from Impact Aid to In Lieu of Tax to forever eliminate the Category "B" struggle.

In October, 1949, the Special Investigating Subcommittee of the House Committee on Education and Labor opened hearings on H. R. 4115 which was a bill to provide for the education of children residing on certain nonsupporting federally owned property, and children residing in localities overburdened with increased school enrollments resulting from federal activities in the areas, and for other purposes. Subcommittee chairmen were appointed and directed to take their committees into the areas affected and hold hearings on the local level to determine the direction Congress should follow. School representatives all over the nation appeared before the Special Subcommittee. Committee reports stressed (1) federal ownership of property reduces local tax income for school purposes, and (2) a federal project or activity causes an influx of persons into a community, resulting in an increased number of children to be educated.

In September, 1950, Congress passed P.L. 815 and P.L. 874. These two laws were based on the philosophy that recognized the role of the federal government as a responsible agent who, though not subject to local taxation, could and would provide funds to local school districts when the activities of the government placed an undue burden on the financial resources of a local community. The purpose of the law was to reimburse states and local school districts for the cost of education brought about by federal activities which reduced potential tax revenues or increased excessively the number of children to be educated.

The argument of the Administration to cut the funds from "B" category pupils has already been studied and reported to Congress by two major studies of Impact Aid which were funded by Congress. These two studies were the Battelle and Stanford Reports.

These reports to Congress concluded that Category "B" funds are as justified as Category "A" funds on the basic economic fact that approximately half of the local revenues from property taxes come from nonresidential property. Congress took this in consideration when P.L. 874 became law in 1950 by permitting Category "B" funds to be only 50% of Category "A" entitlement.

It has never been disputed that Category "B" parents pay taxes on their homes, but it is questioned that the federal property is not taxed and therefore the school district economy is affected by this loss of revenue. Thus, to maintain that because the "B" parents pay property tax on their homes removes the obligation for the government to make Category "B" payment shows a complete disregard for the structure of local tax support for education and the local taxpayers would be forced to assume the burden if permitted by law or the educational program would be reduced to mediocrity.

P. L. 93-380, the Educational Amendments Act of 1974, made major reforms in the Impact Aid program. Various categories were added and "B" students entitlement was further reduced. The reductions now through Tier II allows only about 1/3 of the "A" entitlement for a Category "B" child. This is further reduced when the out-of-county children are considered. A breakdown of a few of the categories contained in the present law shows the entitlement and percent paid through Tier II:

CATEGORY	% OF ENT.	ENT.	AUTHORIZED % THRU TIER II	PAYMENT THRU TIER II	% OF ENT. PAID
Super A's	100%	$646.20	100%	$646.20	100%
A's	100%	646.20	90%	581.58	90%
Military B's	50%	323.10	60%	193.86	30%
Military B - Handicapped	75%	484.65	60%	290.79	45% (Sp.Ed.)
Civ. B - In county	45%	290.79	57%	165.75	25.65%
Civ. B - Out of county	40%	646.20	53%	136.99	21.20%
Super A- Handicapped	150%	969.30	150%	969.30	150% (Sp.Ed.)
Other A - Handicapped	150%	969.30	135%	872.37	135% (Sp.Ed.)
A - LRH - Mil. or Indian	100%	646.20	25%	161.55	25%
Civ. A - LRH	90%	581.58	25%	145.40	22.5%
Civ. A - LRH In county	45%	290.75	25%	72.70	11.25%
Civ. B - LRH Out of county	40%	258.58	25%	64.62	10%

During the 1976-77 school year the Midwest City-Del City School District has 6,222 students who are federally connected. This is approximately one third of the total school population. Of this number, 826 are Category "A's", 34 are Military "A's", Handicapped, 1,249 are Military "B's", 48 are Military "B" Handicapped, 4045 are Civilian "B's" in county, and 20 are Civilian "B's", out of county. The entitlement for the Midwest City-Del City Schools for FY 77 is approximately $1,350,000. For Oklahoma it is estimated that the entitlement including Section 2 schools will be nearly $17,000,000.

Since funding is based on the second preceding year, Impact Aid provides a relatively low level of support. For the Midwest City-Del City Schools, a Category "A" child through Tier II is funded at only $581.58, a Military "B" at $193.86, Civilian "B", In County at $165.75, and Civilian "B", Out of County at $136.99. Yet our per capita expenditure for 1975-76 was $1,017.26. Cost of education has risen due to inflation, to energy increase, to improved programs, and many other factors.

Attached herewith are three sheets of statistical data for the ten largest schools in Oklahoma, Oklahoma's average and Altus, Oklahoma. These show the valuation per capita, revenue received from local, state and federal sources, and the per capita revenue from all sources. It also shows the per capita income for Impact Aid and the percent Impact Aid is of total budget. Please note that the heavily impacted districts of Lawton, Midwest City-Del City and Altus have a per capita valuation of less than $5,000 while the State average valuation per capita is $9,051.59.

The loss of Impact Aid could have a drastic effect on school districts in Oklahoma. Some of these consequences are as follows:

1. Reduction in professional and support staff.
2. Reduction in expenditures for supplies and equipment.
3. Elimination of special needed programs.
4. Maintenance of buildings would suffer.
5. Shorter school year which could result in loss of accreditation and state aid.
6. The education of children around a military base would be drastically affected and lead to poor military moral.

In conclusion, Congress has repeatedly endorsed Category "B" funding in Impact Aid programs. This aid is justified and the level of funding must be restored and authorization extended. The federal government indeed does have a responsibility and to me the integrity of the government in meeting this obligation is paramount.

I respectfully request that this statement, along with attachments, be inserted in the minutes of your hearing.

J. E. Sutton

JES/bh

Attachments

May 12, 1977

STATISTICAL DATA - TEN LARGEST SCHOOLS IN OKLAHOMA & ALTUS & STATE OF OKLAHOMA
PROFESSIONAL STAFF AND VALUATION - 1975-76

NAME OF DISTRICT	PROFESSIONAL STAFF TOTAL	PROFESSIONAL STAFF C/R TEACHERS*	ADA 1975-76	C/R TEACHER PUPIL RATIO	AVERAGE C/R TEACHER SALARY	TOTAL INSTR. STAFF PUPIL RATIO	VALUATION	VALUATION PER CAPITA	COUNTY VALUATION PER CAPITA
Tulsa	3,316	2,803	57,116	20.38	$11,502	17.22	$843,612,021	$14,770.15	$12,919.85
Oklahoma City	2,706	2,292	43,223	18.86	9,939	15.97	574,460,558	13,290.62	10,226.54
Putnam City	1,002	920	18,814	20.45	9,920	18.77	180,331,043	9,584.94	10,226.54
Lawton	1,060	948	17,481	18.44	10,195	16.49	81,822,697	4,608.66	4,845.44
Midwest City-Del City	926	851	17,081	20.07	10,511	18.45	85,171,176	4,986.31	10,226.54
Moore	602	538	11,127	20.68	9,311	18.48	56,215,742	5,052.19	6,394.21
Norman	511	442	8,547	19.33	9,293	16.72	74,224,575	8,654.00	6,394.21
Muskogee	419	372	7,365	19.79	10,302	17.57	53,111,492	7,211.34	6,802.59
Enid	443	391	7,267	18.58	9,977	16.40	67,361,062	9,269.45	11,131.26
Bartlesville	370	323	6,465	20.63	10,560	17.47	76,290,727	11,800.58	10,578.52
STATE OF OKALHOMA	33,738	30,225	548,245	18.14	9,707.50	16.25	4,962,487,286	9,051.59	-----------
Altus	312	298	5,306	N/A	N/A	N/A	19,569,319	3,688.15	4,994.67

*Classroom teachers excludes Central Office Administrators, Principal, Assistant Principals, Coordinators, Supervisors and all other non-teaching personnel.

DATA FROM STATISTICAL REPORT, STATE OF OKLAHOMA

STATISTICAL DATA - TEN LARGEST SCHOOLS IN OKLAHOMA & ALTUS & STATE OF OKLAHOMA
REVENUE

May 12, 1977

NAME OF DISTRICT	LOCAL & COUNTY REVENUE	PER CAPITA REVENUE	STATE REVENUE	PER CAPITA REVENUE	FEDERAL REVENUE	PER CAPITA REVENUE	TOTAL REVENUE	PER CAPITA ALL REVENUES
Tulsa	$ 34,814,400.46	609.54	$ 20,953,996.64	366.87	$ 3,719,012.70	65.11	$ 59,487,409.80	1041.52
Oklahoma City	22,040,811.86	509.93	18,531,594.33	428.74	5,437,246.45	125.80	46,009,652.64	1064.47
Putnam City	6,710,569.00	356.68	8,789,978.00	467.20	521,292.00	27.71	16,021,839.00	851.59
Lawton	4,314,063.00	246.79	10,420,794.00	596.12	3,501,088.00	200.28	18,235,945.00	1043.19
Midwest City-Del City	3,924,807.22	229.78	10,103,785.22	591.52	1,485,120.39	86.95	15,513,712.83	908.24
Moore	2,460,449.00	221.12	6,831,681.00	613.97	509,954.00	45.83	9,802,084.00	880.93
Norman	3,109,311.80	363.79	4,023,040.18	470.70	364,006.34	42.59	7,496,359.12	877.07
Muskogee	2,109,189.76	286.38	3,791,462.96	514.79	820,941.20	111.47	6,721,539.92	912.63
Enid	2,900,327.42	399.11	3,192,473.63	439.31	564,153.03	77.63	6,656,954.08	916.05
Bartlesville	2,864,832.51	443.13	2,827,068.87	437.29	175,225.82	27.10	5,867,128.20	907.52
STATE OF OKLAHOMA	$267,896,336.04	488.64	$307,534,782.55	560.94	$75,285,632.89	137.32	$650,716,751.08	1186.91
Altus	1,260,716.62	237.60	3,098,625.01	583.99	1,259,998.84	237.47	5,619,340.47	1059.05

DATA FROM STATISTICAL REPORT, STATE OF OKLAHOMA

STATISTICAL DATA - TEN LARGEST SCHOOLS IN OKLAHOMA & ALTUS & STATE OF OKLAHOMA
PERCENT IMPACT AID AND FEDERAL FUNDS OF TOTAL REVENUE

May 12, 1977

NAME OF DISTRICT	IMPACT AID RECEIVED [illegible]-75	PER CAPITA	% IMPACT AID OF REVENUE	% TOTAL FEDERAL FUNDS OF REVENUE
Tulsa	$ 224,048.68	$ 3.92	.37	6.25
Oklahoma City	633,919.62	14.67	1.37	11.81
Putnam City	285,730.27	15.19	1.78	3.25
Lawton	2,291,399.48	131.08	12.56	19.19
Midwest City-Del City	1,231,548.00	72.10	7.93	9.57
Moore	295,214.08	26.53	3.01	5.20
Norman	209,942.35	24.56	2.80	4.85
Muskogee	74,778.17	10.15	1.11	12.21
Enid	233,395.86	32.12	3.5	8.47
Bartlesville	00	00	00	2.98
STATE OF OKLAHOMA	12,940,950.17	23.60	1.98	11.56
Altus	662,629.00	124.88	11.79	22.42

DATA FROM SCHOOL PLANT SERVICES, STATE OF OKLAHOMA

Dr. Donald R. Jenkins, Superintendent
Elementary School District 111
Highwood-Highland Park, Illinois

Subcommittee on Elementary, Secondary, and Vocational Education - Impact Aid Hearings - June 21, 22, 23, 28, 29, 30, 1977

House Education and Labor Committee
June 20, 1977

Federal legislation providing "Financial Assistance in Federally Affected Areas" (Federal Impact Aid Program) expires at the end of fiscal 1978 unless extended. I appear on behalf of the 1,435 kindergarten through eighth grade students and the School Board of Education of Highwood-Highland Park, Illinois, School District 111, 240 Prairie Avenue, Highwood, Illinois 60040, to urge that Congress extend the Federal Impact Aid Program.

Thirty-three (33) percent, 475 students, of District 111's 1,435 students live at Fort Sheridan, which is a military installation in School District 111. Also, almost three (3) percent of the District's total enrollment are dependents of military personnel not living on Fort Sheridan, or dependents of civilians who work on Fort Sheridan, but do not reside there.

It is essential that the Federal Impact Aid Program be extended. Discontinuance of the Program by the Federal Government will destroy the fine educational program now existent in School District 111. Class size would be extremely large; and essential support services such as remedial reading, speech and language therapy, guidance services, and other program for the handicapped would have to be eliminated. Finally, the District could not afford to provide sufficient educational materials and supplies. The consequence of the preceding would be that the District 111 students would not have equal educational opportunity.

All sections of Public Law 874 are appropriate and should be extended by the Federal Government because the presence of students in a school district without locally generated tax dollars to help offset the cost of their education imposes a significant "impact" on the school district. Additionally, Public Law 815 should be extended since the presence of students without corresponding locally generated tax dollars to build classrooms to house the students imposes a significant "impact" on the school district.

I wish to speak to two aspects of the Impact Aid Program: "Super A" districts and "Local Contribution Rate," which is a method of determining the amount of money due a school district because of federally connected student [illegible] rict.

Super A districts are those in which twenty-five (25) percent or more of the total average daily attendance reside on Federal property. These are the most heavily impacted districts and, like my own school district, absolutely dependent upon continuation of the Impact Aid Program. Elimination of the Impact Aid Program would not only result in an inferior education for the students, but would also represent a default on the part of the Federal Government by its shifting of complete responsibility for educating these students to the local taxpayer.

The Local Contribution Rate (LCR) is, in my opinion, the most equitable and reasonable method to determine Impact Aid money due a school district. The LCR is computed specifically for an individual school district and therefore eliminates gross inequities which exist when the Impact Aid money due a school district is computed on a broader based measure, such as State averages.

IMPACT AID STATEMENT

BY

ROBERT W. ZERKLE

Business Manager, Mascoutah Community Unit School District 19,
720 West Harnett Street, Mascoutah, Illinois, (618) 566-2927,
before the

Elementary, Secondary, and Vocational Education Subcommittee

of the

House Education and Labor Committee

June, 1977

Mr. Chairman, and Distinguished Members of the Committee:

On behalf of Dr. Jack L. Manwaring, Superintendent, and the Board of Education of School District 19, I Robert W. Zerkle, Business Manager, sincerely appreciate the opportunity to present the following Impact Aid Statement.

Basic Justification for Impact Aid Programs

There have been three major studies made of the impact area aid program; for each of the first two studies Congress appropriated $200,000.

The first study, Impacted Areas Legislation Report and Recommendations was prepared for the Subcommittee on Education of the Committee on Labor and Public Welfare, United States Senate by the Office of Education, U.S. Department of Health, Education, and Welfare and is dated August, 1965.

"The Commissioner determined that the proposed study should be made by a professional research organization not connected with the administration of the two acts. He requested funds for a study and Congress appropriated $200,000 for it. On November 23, 1964, a contract for the project was concluded with the Stanford Research Institute. On June 4, 1965, the institute submitted a two-volume report to the Commissioner."

"The Stanford study group interpreted the intent of Congress in passing Public Laws 815 and 874 to be (1) that the Federal payments should be confined to compensating local educational agencies for financial burdens imposed on them by the Federal activities enumerated in the acts, and (2) that such Federal payments should not exceed the federally created burdens on the school districts."

Major Findings

(a) "Financial burdens are created for local school districts by Federal activities of the types covered by the two acts."

(b) "It is possible to determine each district's financial burden."

(c) "The financial burdens created by the establishment of a Federal project are not restricted to the project's initial impact, but are continuing burdens."

(d) "Financial burdens created by Federal activities vary from district to district."

"Thus, we conclude that P.L. 874 is a defensible, though somewhat unusual, piece of federal legislation; that it is properly conceived in terms of relieving burdens imposed upon school districts that educate federal pupils; and that permanent payments to impacted areas under P.L. 874 can be justified. The burden as defined by P.L. 874 relates entirely to the needs of each district as expressed by its own level of effort. Thus, the burden tends to be greater in rich than in poor districts. This concept of burden does not take into account educational 'needs,' which may be measured in terms of some educational standards or goals."

The second study made by the Battelle Memorial Institute titled Final Report on School Assistance in Federally Affected Areas--A Study of Public Laws 81-874 and 81-815 to Office of Education, Department of Health, Education and Welfare, December, 1969 contains the following major conclusions:

> "The federal government should continue to provide a program of school assistance to federally affected areas."
>
> "The basic features of the current program are sound. The basic mechanism of the current program, namely counting the federally connected students in a district, calculating a per pupil payment for the district and multiplying the number of students by the rate of payment, is sound. It is capable of providing a reasonable approximation of the federal impact upon the district, and is relatively simple to administer by comparison to alternative methods considered."

The third study made by the Comptroller General of the United States in 1976, indicates that:

> "An analysis of data available for 1,671 local agencies showed that without impact aid entitlements 48 percent would need property tax increases of less than 5 percent and 18 percent would need increases of 5 to 10 percent. At the upper extreme, 15 percent of the local agencies would need property tax increases of 25 percent or more."

While these three studies differ on some points there is agreement on and support for the basic premise of the present impact area aid program, that the Federal government has imposed a financial burden on school districts.

In conclusion, Public Laws 815 and 874 have:

1. been economically and fairly administered
2. sent money directly to school districts
3. had no scandal over the misuse of funds in the administration of Public Laws 815 and 874.

Aid to Mascoutah Schools for "A" Category Students

The Mascoutah School District has a student enrollment of approximately 3,726. 2,282 of those students reside on Scott Air Force Base. For purposes of this discussion they are classified as "A" category students under P.L. 874.

Under the funding provisions of P.L. 874, for these "A" category students, the District receives $1,625,000 (Figures in this report are rounded off since the impact of the problem is the intent of this report.) This $1,625,000 represents over 31% of the total District budget ($5,264,000) for the educational, and transportation funds.

For the District to raise $1,625,000 at the local level in additional revenue to operate the schools would require an increase of $4.25 per $100. of equalized assessed valuation. Certainly, the Mascoutah School District would be in the upper 15 percent, as catagorized by the Comptroller General report, by needing a 350% increase in property tax without impact aid entitlements. Of course, this is not justified, nor would it be feasible.

The impact created by the District was by the federal government and remains the responsibility of the federal government to fund "A" category students for general and non-categorical programs.

Some consideration has been given by the federal government to shift the funding of P.L. 874 programs via Federal Revenue Sharing. This method of shifting the funding from an established base to one of unknown probability creates an unworkable situation for this District. The problem of planning and providing adequate programs when discretionary authority for funding is provided through Federal Revenue Sharing or as suggested in the Battelle report would be wholly unfair to these highly mobile students. Without these federal funds, the Mascoutah School District would cease to operate, or increase its pupil/teacher ratio by over 100%.

The most recent report has considered the use of P.L. 874 monies be paid directly to the states that have a fully equalized funding program. This would not generate additional funds to this district.

What solutions:

1. Urge the Congress to pass legislation authorizing extension of P.L. 874 and P.L. 815 for five years.
2. Urge full funding of P.L. 874 according to current legislation.
3. Urge funding of construction programs under P.L. 815. The Mascoutah School District taxpayers have taxed themselves for construction purposes more than $600,000 - which was a federal government responsibility to adequately house federally impacted school children.

In addition to "A" category students under P.L. 874, the Mascoutah Schools have 328 "B" category students, which entitles the district to $100,000 annually. This would require an additional 35¢ rate per $100. of equalized assessed valuations - a 30% increase in local property taxes.

Testimony Concerning Closing of Federal Facilities

To: Sub-Committee on Elementary, Secondary and Vocational Education

With the closing of Federal military installations, school systems located close to these installations could be very definitely handicapped in providing adequate public education if "Impact Area Funds" were withdrawn. It is my understanding that under the present law provision is made to provide not less than 90% of entitlement for a school system that loses Federally connected students by as much as 3% of its total ADA resulting from a military base closure. This provision is for the three (3) years following a closure. I believe the present law, unless re-enacted, will expire at the end of the 1978-1979 school year.

In the case of the Selma City Schools located four (4) miles from Craig Air Force Base the P.L. 874 Title 1 entitlement has been $128,345 and $129,731 respectively for the past two (2) years. While it appears that the two (2) years 1977-1978 and 1978-1979 are presently covered, the school year 1979-1980 would not be covered unless some "hold-harmless" or similar provision is re-enacted into law. Assuming that Low-Rent Housing students and a few others would account for approximately $29,000 annual entitlement, the Selma City Schools could lose approximately $90,000.00 for 1979-1980 if this provision is not included in new legislation.

I believe a similar situation would occur for the Dallas County schools and a number of other school systems adjacent to Federal installations that are closed.

Your consideration of including a provision to protect systems from too much loss because of Federal closures for at least three (3) years would be greatly appreciated.

Joseph A. Pickard, Superintendent
Selma City Schools

June 1977

JAP:lf

EDWIN B. FORSYTHE
[illegible] Cannon House Office Building
Washington, D.C. 20515
[illegible]

MEMBER:
COMMITTEE ON
MERCHANT MARINE AND FISHERIES
COMMITTEE ON
SCIENCE AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, D.C. 20515

June 27, 1977

Honorable Albert H. Quie
Ranking Minority Member
Subcommittee on Elementary, Secondary
and Vocational Education
House Committee on Education and Labor
2185 Rayburn House Office Building
Washington, D. C. 20515

Dear Congressman Quie:

I would like to bring to your attention a copy of correspondence I have received concerning the effect of President Carter's Impact Aid proposal on local school districts in New Jersey. As you will note, this information applies not only to schools in my Congressional District but to schools throughout the entire State.

I would particularly like to bring to your attention the discussion of the specific nature of ESEA Title I funding which would effectively prevent these funds being used as an adequate replacement for the funding lost through reduced Impact Aid.

Since your subcommittee is currently engaged in hearings thoroughly examining the entire Impact Aid program, I would greatly appreciate your including this information in the record of those hearings.

Sincerely,

Edwin B. Forsythe
Member of Congress

EBF:klb
Enclosure

TOMS RIVER SCHOOLS
306 HORNER STREET
TOMS RIVER, NEW JERSEY 08753

ALBERT J. DIETRICH
Assistant Superintendent

(201) 341 920
Ext. 250

June 20, 1977

Congressman Forsythe
Congress of the United States
House of Representatives
Washington, DC 20515

Dear Congressman Forsythe:

I have sent out questionnaires to a random sample of school districts in New Jersey with FY'77 Impact Aid Part B appropriations (SAFA estimates) in excess of $50,000. A copy of the questionnaire and a summary of the responses received are attached.

In addition to the questionnaire responses I have spoken to many local school district superintendents and administrative personnel throughout the state. I have found that all persons with a working knowledge of Impact Aid and the educational system agree that the Carter administration's position on Part B Impact Aid funds is (1) detrimental to the best educational interests of children, and (2) places an unfair tax burden on local residents in school districts where the student population is affected by military bases and/or installations.

President Carter's belief that an increase in ESEA Title I funding will help school districts absorb the loss of Impact Aid funds is grossly misguided. The nature of the Title I funding formula makes it impossible to channel sufficient additional Title I monies to the school districts losing large amounts of Part B Impact Aid monies. Also, Title I guidelines restrict the use of Title I funds to limited geographical areas within most school districts and limit program eligibility to specific academic areas and limited student populations. You simply cannot compare a categorical aid type program (ESEA Title I) and a general aid type program (Impact Aid).

The attached responses to the Impact Aid questionnaire give more specific testimony regarding the relationship of ESEA Title I to Impact Aid (See Question 3c). Responses to questions 2a-2d give specific testimony regarding the effect of the loss of Part B Impact Aid monies on local tax rates and the education program.

The citizens and educational community of the State of New Jersey cannot support the Carter administration's plans to cut Impact Aid funding. The record on this issue must be clear.

al

Albert J. Dietrich
Assistant Superintendent

FY'78 IMPACT AIDE QUESTIONNAIRE

School District: ______________________

Contact Person: ______________________

Title: ______________________

Address: ______________________

Telephone Number: ______________________

1. I am attempting to determine the accuracy of School Assistance For Federally Affected Areas (SAFA) estimates of Part "B" Impact Aide funding. Please fill out Column 2 of the chart below.

	Column 1	Column 2
	SAFA Estimates of Part "B" Appropriations	Actual Part "B" Funds Received
1976		
1977		

2. According to SAFA estimates your 1977 Impact Aide "B" appropriation is $______________. If you lost this amount of funding in fiscal year 1978 what do you feel would happen? (Check one or more)

   ____ a. Local tax rates would be raised to compensate for the loss of "B" monies.

   ____ b. Educational programs would be eliminated. If so, list programs and estimated number of children affected: ______________________

   ____ c. Educational programs would be cut back but not eliminated. If so, list programs and estimated number of children affected: ______________________

   ____ d. Other (i.e. Class size would increase at the elementary level). Please explain: ______________________

3. While reducing Impact Aide, the Carter Administration wants to increase ESEA Title I by $350 million, saying the additional money from Title I will help school districts absorb the loss in Impact aide funds (Source: 3/23/77, Education Daily).

   a. If your ESEA Title I allocation were increased to fully compensate for your district's loss of Impact Aid "B" monies how much additional Title I monies would your district need to receive? $__________. This amount is what percent of your Title I allocation? __________%.

   b. How many schools are in your district? ________ How many schools are presently Title I schools? ________

   c. Do you agree that an increase in ESEA Title I funds will help school districts absorb the loss of Impact Aid "B" funds? ___YES ___NO
   Comment: ______________________

4. Please use this page to write any comments you feel should be considered in preparing Impact Aid testimony. You need not limit your comments to "B" funding.

PLEASE RETURN BY JUNE 10, 1977 TO:
TOMS RIVER SCHOOLS
Albert J. Dietrich
Assistant Superintendent
306 Horner Street
Toms River, NJ 08753

The following statistics and comments were compiled from FY'78 Impact Aid Questionnaires submitted by local school districts throughout the state.

Question 2a- Ten (10) out of sixteen (16) school districts responded that local tax rates would be raised to compensate for the loss of Part B monies. Comments offered were:

Rockaway Township-"2.5¢ per $100.00"

Burlington City- "We would ask City fathers for additional monies."

Pemberton Township- "If the total funds were raised locally, taxes would be increased approximately 31¢ per $100 evaluation."

Question 2b- Ten (10) out of sixteen (16) school districts responded that educational programs would be eliminated should Part B funds be eliminated.

Rockaway Township- "This could possibly happen, however, listing the program at this time would be impossible."

Rancocas Valley Regional- "State 'caps' may not permit taxes to be raised or budget to be increased [therefore educational programs would have to be eliminated]."

Newark- "Computational Skills Program for 6,497 children would be eliminated."

Camden City- "Instructional services to primary grades and Community aides affecting about 3000 children."

Long Branch- "Kindergarten Supplemental- 100 [children]

Plainfield- "Title I type compensatory ed. programs in math and reading."

Burlington City- "Since we would not get all monies we asked City fathers for [to compensate for loss of Part B funds] we would eliminate Arts-music-athletics. 25% of kids would be hurt."

Bayonne- "Approximately 8 reading teachers (Supplemental) would be eliminated."

Pemberton Township- "Programs which would possibly be eliminated are extra-curricular activities, athletics, guidance services, art and music.

Toms River Regional Schools- "One or a combination of any of the following could result if the loss of Part B monies were not replaced through local taxes."

"1. 25 teaching positons affecting over 500 children."

"2. A reading department which services over 1,000 children."

"3. The elimination of various athletic programs and/or intramural programs within a district that services over 5,000 children [in these areas]."

"4. The possible elimination of art and music programs servicing over 10,000 children."

Question 2c- Seven (7) out of sixteen (16) school districts responded that educational programs would be cut back but not eliminated should Part B funds be eliminated.

Rockaway Township- "This could possibly happen, however, listing the programs at this time would be impossible."

Middletown Township- "Primary Reading/Language Arts/Math in area of curriculum development."

Long Branch- "ESL Supplemental- 25 [children]; Remedial Reading- 30 [children]"

Paterson- "Projected expansion of Title I Language Arts, Computation Skills and NSE programs for approximately 1600 students would be eliminated."

Carteret- "Compensatory education type services offered in reading and math to fifth grade students-- 84 students."

Lakehurst- "Remedial programs. Music, Arts, & P.E."

Bayonne- "If not reading some class[es] in the supportive areas would be eliminated."

Pemberton Township- "The same programs listed in b [extra-curricular activities, athletics, guidance services, art and music] would probably be reduced with the combination of increasing local revenues and partially eliminating some programs."

Question 2d- Four (4) out of sixteen (16) school districts responded that other areas of the educational program would be adversely affected should Part B funds be eliminated.

Rockaway Township- "Class size could be increased, also any combination of the above [see responses to Questions 2b and 2c above.]

Bayonne- "If either a,b,c [increased local tax rate, elimination of 8 reading teachers, and cut backs in reading classes and supportive services] were not accomplished class size would have to be increased to unreasonable and educationally unsound sizes."

Pemberton Township- "Another option for the district would be to increase class size and thereby eliminate some classroom teachers. The average class size in Pemberton Township is between 28 and 30. Therefore, this is not a viable solution."

North Burlington County Regional- "The amount is such that there would probably be a general reduction throughout the budget to reflect the loss."

Question 3c- Ten (10) out of sixteen (16) school districts responded that an increase in ESEA Title I funds will not help the school district absorb the loss of Impact Aid "B" funds. Four (4) out of sixteen (16) school districts responded that an increase in ESEA Title I funds will help absorb the loss of Impact Aid "B" funds. Two (2) out of sixteen (16) school districts did not respond to the question.

Rockaway Township- "The second comment I would like to make is concerning the diverting of funds from Impact Aid to Title I. My comments here are quite direct in that we're taking funds from a funding source with no strings attached and placing those funds into a categorical aid fund with a number of guidelines and restrictions. I personally find that the impact of those funds that come under the guidelines of categorical aid such as Title I is greatly reduced by the stipulations that are built in, not to mention the erosion that takes place in administering and managing that type of funding source. Local districts are able to give much more return to the taxable dollar when funds are not earmarked and when funds are not managed in the manner that categorical aid funds are." Dr. Jesse D. Dillon, Jr., Superintendent in an excerpt from a June 13, 1977 correspondence as attached.

Middletown-Township- "Purpose of Title I ESEA and PL#874 are not the same."

Camden City- "If we get the $300,000 [loss in Part B, Impact Aid restored in the Title I program]. The qualifications are different between Impact Aid & Title I.- We could lose."

Long Branch- "$350 million distributed nationally would not come close to giving Lang Branch the $150,000 (est.) needed to compensate for the loss of Part B monies."

"An additional $350 million in Title I monies would not even make up for the loss in Title I dollars experienced by districts during the last two administrations. The effect of this decrease has been compounded by spiraling educational costs resulting in the elimination and reduction of programs. Fewer children are being serviced each year.

"We should not only fight against the elimination of Part B monies, but also fight for ESEA Title I "full-funding" so that every educationally disadvantaged child can be served."

Paterson- "No assurances that districts presently receiving Impact Aid would continue to get the same amount of increased assistance now provided by the existing formula. The Title I formula will probably allocate the increased Title I funds to all districts qualifying under Title I whether or not they are presently entitled to Impact Aid funds. Such a formula would decrease the total amount of Title I- Impact Aid funds allocated to the districts that presently qualify for Impact Aid. Also the purpose of funding Title I and Impact Aid are not the same and there is no sound reason to trade one off for the other.

Carteret- "Yes, if the amount equals what would be received under SAFA if full funding was granted."

Burlington City- "ESEA Title I is a categorical aid [program] and should be changed to general aid not increased in the categorical package."

Lakehurst- "Yes, if it [increase in Title I] is equivelent to the amount of Impact Aid loss."

Bayonne- "While increase in Title I would be an admirable alternative, the use of Title I funds is restricted thus preventing all students in the district from receiving benefit of increased funding."

Morris Hills Regional Schools- [No], Title I funds are supplemental funds used for basic reading only."

Pemberton Township- "Title I is too restrictive. It is categorical aid. We need funds for the total program."

Toms River Regional Schools- "P.L. 874 is a general aid program servicing all children while PL 89-10 services a limited number of disadvantaged children. There is no such thing as an equal trade off."

The following comments were offered regarding the loss of Part B Impact Aid funds.

Rockaway Township- See attached June 13, 1977 correspondence.

Rancocas Valley Regional- "Loss of 'B' funding would seriously affect our ability to maintain our present and future levels of program."

Middletown Township- "The reduction of the amount of impact aid under Section (b) would have a double effect on the Middletown Township School District. Because of the socio-economic make up of the district, our ability to provide valid educational programs under ESEA Title I, if these funds were used to replace the Impact Aid amounts would be questionable. I believe that the original intent of ESEA Title I and P.L. # 874 are not compatible and therefore the guide lines and the segment of the community which would be affected would be different. In addition, the present concern on the close down of major personnel at Fort Monmouth will have its affect on the district but at the same time the expansion of NAD Earle will also require planning on the part of the community to accept these additional students. It would cause an unfair hardship on the school district to have an increased enrollment because of an expansion of the Earle installation in this area and not have federal assistance in providing for that increase."

Carteret- "During the 1977-78 school year the district of Carteret is to receive an entitlement of $18,465 from Part "B" Impact Aid funds. This was based upon the low rent housing clause of this act. Though only funded at a 29.5% level of the full entitlement, Impact Aid funds enable our district to provide remedial instruction in the areas of reading and mathematics for 84 students who would not have been serviced. Though approval of application was received from the New Jersey State Department of Education and verification of statistics was completed on site by a member of HEW's Region II Office, no payment as of this date has been received. This long delay in receiving the actual funds should be rectified."

Lakehurst- "Programs are developed in this district on Impact Aid anticipated revenue as this is a very poor district and we must include the aid in our budget preparation."

"In the event Impact Aid is cut off, we may be in the position to reject military dependant students from our rolls. This would harm the Federal Government with providing educational facilities for dependent children."

Bayonne- See attached June 6, 1977 correspondence.

Pemberton Township- "Pemberton Township is a heavily impacted area because of the Fort Dix Military Installation and McGuire Air Force Base. The parents of many children who attend the Pemberton Township Schools are on active military duty. In addition, Ft. Dix Military Installation and McGuire Air Force Base are primary employers in the area. Elimination of Part B funds will have a very serious impact on school financing. Pemberton Township has very little industrial development and is primarily residential because of dependence on Fort Dix and McGuire Air Force Base for employment."

"The school system has developed over the years to meet the needs of those children who are connected with Ft. Dix and McGuire but live in Pemberton Township."

ROCKAWAY TOWNSHIP
PUBLIC SCHOOLS

JESSE D. DILLON, JR. ED. D.
Superintendent of Schools

P. O. Box 241
Rockaway, New Jersey 07866
201 - ~~364 - 2900~~- 627-8200

June 13, 1977

Dear

Much is being said about the elimination of Part B on the Impact Aid Funding and I know that Congress is greatly concerned about this along with the Administration. Recently there has been an indication by the Administration that while reducing Impact Aid, ESEA, Title I, funds would be increased by a like amount.

As Superintendent of a district with a large percentage of that township being consumed by a government reservation, I would like to make a few comments and I would also further like to offer any help or assistance that I can give you in making your decision.

First of all, it has been said that the Part B Impact Funds are not necessary because employees that work in a government installation live locally and pay real estate tax to the township in which they live. It seems to me that it's important to understand that though this is true, the same fact is also true of industry or retailers or any other agency that hires people to work for them. For example, any industry that would be located in Rockaway Township and having people working there that live in the township, while those workers live in the township and pay local real estate tax, the industry still pays its proper share of real estate tax to the township. As you well know, any government installation that is located in a township is exempt from doing this. And though we do get the real estate tax from the individual worker at Picatinny Arsenal, we receive no monies from the federal government for the amount of property that the government uses. In effect, as far as Rockaway Township is concerned, better than 25% of its properties is non-taxable and, therefore, generating absolutely no local tax base at all. Certainly there ought to be something that would come back to the township to compensate for that loss of local taxation. Now maybe we ought to call it something other than Impact Aid Funding. Certainly that is misleading and is a throwback to the World War II days, but to say that a district such as Rockaway Township should receive nothing in the way of funding from the federal government simply because the workers at the Arsenal pay their local tax is completely ignoring the tax structure insofar as other employing agencies are concerned.

The second comment that I would like to make is concerning the diverting of funds from Impacted Aid to Title I. My comments here are quite direct in that we're taking funds from a funding source with no strings attached and placing those funds into a categorical aid fund with a number of guidelines and restrictions. I personally find that the impact of those funds that come under the guidelines of categorical aid such as Title I is greatly reduced by the stipulations that are built in, not to mention the erosion that takes place in administering and managing that type of funding source. Local districts are able to give much more return to the taxable dollar when funds are not earmarked and when funds are not managed in the manner that categorical aid funds are.

In summary, the elimination of Part B Impact Aid Funds will serve as a great disservice to districts that have a high percent of properties off the tax roles for U.S. Government installations. Second, if the federal government does in fact eliminate Part B of the Impact Aid funding, a hardship will be experienced immediately by the local school districts for they will have to continue offering services and at the same time find funds from another source, probably local property tax. Third, placing the lost money in the ESEA Title I account will not serve to assist the local district in recovering the loss of the Impact Aid since much of that money is eroded in administration and supervision of those categorial accounts.

I, therefore, respectfully request that you not support the Administration's request for reduction of Impact Aid and further suggest that if my help is needed in any way, you feel free to call upon me. I'll be glad to either come down and talk with you or respond to any particular questions that you may have.

Sincerely,

Dr. Jesse D. Dillon, Jr.
Superintendent

JDD:gw

BAYONNE PUBLIC SCHOOLS
BAYONNE, N. J. 07002

WILLIAM G. HIN
SUPERINTENDENT

437-3000

June 6, 1977

Hon. Joseph LeFante
Member of Congress

Hon. Carl Perkins
Chairman for U.S. Education

Hon. Clifford Case
U.S. Senate

Hon. Harrison P. Williams
U.S. Sentate

Dear Carl,

Any substantive change in P.L.874 Part B Impact Aid will reduce federal assistance to Bayonne City School District, and to a great number of systems in New Jersey and the nation.

Bayonne contains and supports the largest Military Ocean Terminal in the world, the supply depot and logistic management center of both the United States Army and Navy. This magnificent site of major national and international planning, supply, defense, and economic value faces the Statue of Liberty and Atlantic Ocean in New York Harbor. Its value is immense and irreplaceable. It is not subject to property tax levy.

Bayonne needs continuing, constant support from P.L.874-B to at least assist the education which is provided to armed service personnel, their children, and those of government employees at this major strategic Army and Navy base. Such Impact Aid only assists and does not nearly underwrite the cost of educating these pupils--but it is of key assistance value.

Our school budget anticipates Impact Aid from P.L.874-B now and annually. Any reduction in it directly aborts and eliminates educational services to the children. Further, we have no legal method to readjust or increase our tax levy in said regard. Thus, "any depletion in Impact Aid really does remove educational nourishment from the mouths and minds of children."

Bayonne and Hudson County for more than three years have suffered unemployment problems of real consequence, purportedly highest in the nation. We simply cannot eliminate these monies, and in turn curtail schooling which will further depress the situation.

We are highly patriotic, pleased to have this great federal installation here, anxious to provide good quality education. You must provide the substance of continued PL874-B fiscal aid to at least assist us to maintain our effort. Any reduction will directly reduce education to children. Any promise or plan to replace PL874-B Impact Aid with supplemental ESEA Title One assistance will limit the amount and types of service which we now do, or could, provide, and will deny service to many pupils based upon ESEA I provisions. Please support our needs.

Thank you.

Sincerely,

Bill Hin

William G. Hin,
Superintendent of Schools

WGH/rm
cc:
Hon. Members of Congress: New Jersey Delegation
Ruth Mancuso, President, State Board of Education
Dr. Fred G. Burke, Commissioner of Education
Dr. Russell Carpenter, County Superintendent
Bayonne Board of Education
Dennis Collins, Mayor of the City
Anthony Barone, State & Federal Programs Coordinator

STATEMENT

by
J. M. Hanks
Superintendent of Schools
Ysleta Independent School District
El Paso, Texas
House of Representatives
Committee on Education and Labor
Subcommittee on Elementary and Secondary Education

Wednesday, June 29, 1977

Mr. Chairman and Members of the Committee:

I am J. M. Hanks, superintendent of schools, Ysleta Independent School District, El Paso, Texas. This statement I would like to present for the record in behalf of my own school district and as chairman of the federally impacted area school districts of Texas.

We would like to urge a change in the guidelines of PL81-874 to govern payments to different sections of the law, as follows:

The funding of Section 3(b) students be placed on the same Tier level as Section 3(a).

Under the law as amended in the last sessions of Congress, some Section 3(b) students were lowered in percentage ratio with reference to Section 3(a) from 50 percent as had been a part of the law since the legislation was enacted in 1950, to a ratio below the 50 percent.

The school systems with large numbers of Section 3(b) students, after some protest accepted this change with the expectation that all Sections would be treated fairly insofar as distribution of appropriations was concerned.

Let us take a look at what happened when the guidelines for distribution of funds were published, and the payments were made. The distribution was as follows: Tier I, 25 percent for both Sections 3(b) and 3(a) were paid; Tier II, Section 3(a) schools with 25 percent military were due the balance of 100%

entitlement. Other Section 3(a) were eligible to be paid 90 percent of the entitlement. Some of the school systems heavily impacted with Section 3(b) were paid less that 40 percent of the entitlement for 1975-76.

It is my understanding that other Section 3(b) payments were placed in Tier III, and that payments would be made along with public housing, since these Section 3(b) payments would be paid on a percentage basis, according to funds available for all Tier III, including public housing. Thus it seems that the only way to be paid comparably for Section 3(b) students is to change the guidelines, placing Section 3(b) in Tier II with Section 3(a) students.

It has been determined that about 50% of all school taxes are paid on homes and 50% on other property. In lieu of taxes, payments are made for 3(a) students and one-half this payment is made for 3(b) students. This formula has determined the base of payment and obligation of the federal government for a number of years. Thus it may be said that the same argument that justifies payment for Section 3(a) also justifies payment for 3(b).

In behalf of the federally impacted area school districts of Texas, I urge this committee to place Section 3(b) students in Tier I and II on the same basis as Section 3(a). Continuation of the impacted area school program across this nation is necessary to provide complete education for children whose parents move from one federal institution to another.

In conclusion, I wish to thank the committee for the privilege of filing a statement in behalf of the federally impacted area schools of Texas.

THOMAS S. FOLEY
5TH DISTRICT, WASHINGTON

CHAIRMAN
COMMITTEE ON AGRICULTURE

MEMBER
AD HOC COMMITTEE ON ENERGY

Congreſs of the United States
House of Representatives
Washington, D.C. 20515

OFFICES:
HOUSE OFFICE BUILDING
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AREA CODE 202, 225-2006

574 U.S. COURTHOUSE
SPOKANE, WASHINGTON 99201
AREA CODE 509, 456-4680

40 SOUTH COLVILLE
WALLA WALLA, WASHINGTON 99362
AREA CODE 509, 529-6111

July 1, 1977

Dear Mr. Chairman:

I am enclosing for your consideration a copy of a letter I received from Mr. Clayton Dunn, Superintendent of the Medical Lake Consolidated Schools, in which he expresses his views on the importance of Federal Impact Aid legislation.

As Mr. Dunn's letter reflects his thoughtful views on this subject, I am sending a copy so that you will have it as your subcommittee begins markup of this legislation.

With best regards.

Sincerely,

Thomas S. Foley

Thomas S. Foley
Member of Congress

The Honorable Carl D. Perkins
Chairman
Subcommittee on Elementary,
Secondary, and Vocational Education
B346 C Rayburn House Office Bldg.
Washington, D.C. 20515

TSF:lh
Enclosure

MEDICAL LAKE CONSOLIDATED SCHOOLS
SCHOOL DISTRICT SPOKANE COUNTY MEDICAL LAKE, WASHINGTON
99022

May 27, 1977

The Honorable Thomas S. Foley
House Office Building
Washington, D.C. 20515

Dear Representative Foley:

I am again taking the liberty of contacting you (and Senator Jackson and Senator Magnuson) to request your combined aid in ascertaining that proper Federal Impact Legislation is formulated and funded by Congress. I have been informed that the Subcommittee on Elementary, Secondary, and Vocational Education (the authorizing subcommittee for Impact Aid) plans to hold 6 days of hearings on Impact Aid on June 21, 22, 23, 28, 29, and 30. In light of the suggestions of the House and Senate Budget Committees to phase out Impact Aid, I'm certain that this will be one of the vital topics discussed by the Subcommittee on Elementary, Secondary, and Vocational Education. Consequently, in preparation of these hearings, I have provided this up-to-date accounting to show the EFFECT that NO legislation (and/or improper funding of the "A" and "B" categories) would have on a VERY HIGHLY IMPACTED School District such as the one which I represent (Medical Lake School District #326). I sincerely solicit your continued support for the continuance and the sufficient funding of Federal Impact Legislation. Not only is this support needed by Medical Lake School District, but it is also needed by many of the other highly impacted School Districts located in the State of Washington.

Hopefully, after you read this letter, you will submit this information to some of your colleagues who are on the Subcommittee on Elementary, Secondary, and Vocational Education. By so doing, I'm positive that you will be able to indicate to these Congressmen that Federal Impact Legislation is just as much needed today as when it was originally enacted. Also, the simple fact that by transferring Federal Impact monies to E.S.E.A. Title I (as some have suggested) would in no way provide the financial help needed by the truly highly impacted School Districts. There simply isn't any relationship between the needs of these two programs.

Since Medical Lake is probably the most highly impacted School District located within the State of Washington, the story which I relate is simply of greater magnitude than that of many of my "neighbors." Nevertheless, many other Washington School Districts (such as Clover Park, Oak Harbor, Bremerton, etc.) would experience similar type financial difficulties with any type of withdrawal of funding for either the "A" and/or "B" categories. Thus, my major concern is for you to be concerned to have Federal Impact Legislation continued and that proper funding be similarly enacted for both the "A" and "B" categories. Without question, the financial burden of a "Military B" category student is much greater than that for a "Civilian B" (because of the implications of the Soldiers and Sailors Relief Act).

Before I outline the effect that Federal Impact Legislation has on Medical Lake School District, I want to again reiterate that I firmly believe that public education is the responsibility for each State. However, as you well know, the State of Washington (as well as most other States) does not completely fund public education. Consequently, a portion of my School District's revenue must come from property taxes levied against the private property located within this District. However, since the majority of all property in Medical Lake School District is owned by the Federal and State Governments, our tax base is very small and the tax burden is thus shifted to a minority of the total population. Additionally, what can be termed to be the major businesses located in our School District, are those located on Fairchild Air Force Base (where neither a local and/or a state sales tax can be levied). Consequently, the majority of our federal impact students have parents who are paying no taxes (of any sort) for the support of the public school system which is provided for their children. Thus, without question, Federal Impact Legislation is needed (just as it was when it was originally enacted) to compensate the local School District for the inequity caused by the unfairness of the school support tax system.

In addition to the above, our assessed valuation per student daily attendance entitlement is the second lowest of the School Districts in Washington. Thus, IN NO WAY can charges be made that the Medical Lake School District is a FAT CAT because of the abundance of federal impact funds. I believe the story of Medical Lake School District can be substantiated many, many times by the truly HIGHLY IMPACTED MILITARY School Districts which are located throughout the entire nation. Nation-wide, the HIGHLY IMPACTED SCHOOL DISTRICT generally spends somewhat less money per student and has a far lower assessed valuation per student when compared to a NORMAL School District of that particular State.

Of all forms of Federal Aid to Education, Federal Impact Legislation is by far the most superior. This is true because of the following:

1. Washington, D.C. does not have any entrenched bureaucracy which is working for its continuance (it annually comes under criticism with the suggestion that it be abolished).
2. A very small H.E.W. Washington staff (under the direction of William Stormer) is charged with the management of the entire system (compare this to the vast bureaucracy employed by almost any other Federal Education program).
3. Federal Impact Legislation is a GENERAL FINANCIAL AID program designed to compensate a local School District for the financial burden placed upon it by the non-payment of taxes by the Federal Government.
4. Federal impact money is not siphoned off by Federal Bureaucrats, State Department Supervisors, etc. It goes to the local School District (where the need is) and is administered as part of the General Education Program designed by the Board of Education of that particular School District.

Currently, the Medical Lake School District is receiving approximately $800,000 in P.L. 874 funds. It simply is inconceivable to expect the local taxpayers to make up this funding (if Federal Impact Legislation is abolished). HOW can the minority pay the cost when the majority are paying no taxes for the support of the School System. Keep in mind that the Medical Lake School District has one of the lowest assessed valuation per student of any to be found in the State of Washington.

Representative Foley -- you are probably acquainted with the Medical Lake community. I guess that you would have to say that we are a TYPICAL small town that has had to face the vastness of the problems created by a nearby Air Force Base. We don't have many expensive homes -- very few moderate priced homes -- and a preponderance of low priced homes (and trailer parks) that are geared to the pocketbook of the military Non-Com. Medical Lake has very few businesses. This is true simply because it is far cheaper for the majority of our citizens (including the active and retired military) to do their shopping on Fairchild Air Force Base or in Spokane.

Thus, you are aware of the importance of Federal Impact Legislation to a community and a School District such as Medical Lake School District #326. Therefore, may I suggest that you suggest affirmative votes from your colleagues for the continuance of Federal Impact Legislation (and its proper funding). Your past support has been very much appreciated and your continued help in this endeavor will be sincerely appreciated by every patron of our School District. Thank you for your time and consideration.

Sincerely,

Clayton A. Dunn
Superintendent

CAD:ps

IMPACT AID TESTIMONY

Prepared by

CHARLES L. TUDER
ALAMEDA UNIFIED SCHOOL DISTRICT
400 Grand Street
Alameda, California

For the Elementary, Secondary, and Vocational Education Subcommittee
of the Education and Labor Committee

June 30, 1977

The Alameda Unified School District has, since the beginning of Public Law 81-874, been a recipient of Impact Aid. Impact Aid income this year is $1,720,000, which is 9.6 percent of the total operational budget.

This income is received due to the existence of the Naval Air Station within the limits of the school district. Out of a total school population of 10,300, we have 1,740 children of parents residing in federal quarters. There are 316 children of military parents residing in privately owned property and 742 children of civilian parents employed on federal property.

The City of Alameda is an island in San Francisco Bay next to the City of Oakland, separated by an estuary. The island is approximately three and one-half miles wide by seven miles long. A small section of the city extends beyond the island near the Oakland Municipal Airport. The school district's boundaries are contiguous with the boundaries of the city. There are 22.8 square miles within the city. The city contains 14,592 acrea of usuable land surface including U.S. Navy property. Navy facilities within the city limits are as follows:

Naval Air Station, Alameda	2,533 acres
Naval Air Station, Alameda-Supply Annex	74 acres
Naval Air Station, Alameda-Naval Public Quarters	118 acres

Total acreage directly associated with Naval Air Station, Alameda is 2,726 acres.

The federal properties I have mentioned represent 19 percent of the usuable lands in Alameda. The city is residential development of single family homes, duplexes and condominiums. There is some light industry and it is generally associated with shipping and pleasure crafts.

The 1976-77 assessed valuation in the city is $233 million. Averaged per acre it is $19,636. If we make the assumption that 2,726 acres of U.S. Navy property was housing developments, marinas and light industry (ALL TAXABLE PROPERTY) the 1976-77 school district assessed valuation would increase by $53,500,000. The school income from property taxes would be $2,950,000. Compare that figure with the Impact Aid we receive at $1,720,000 and you can readily see that the difference is $1,230,000, which represents additional income to the school district.

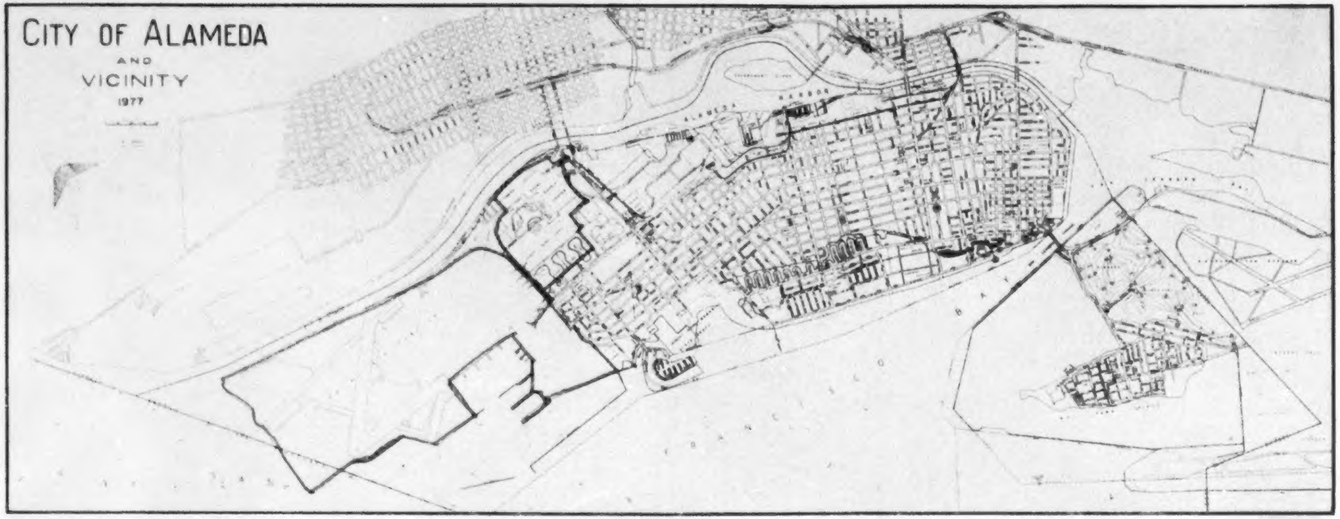
We Alamedans are proud of the naval community. We have just completed a $1,7 million dollar school, with funds for the construction to be repaid by the local tax payers. We could not qualify for Public Law 815 funding since we submitted our application in 1971.

What would the loss of Impact Aid mean to the school district? Simply stated, since the current income represents 9.6% of the budget, it would likewise represent the same percent of reduction in staff, goods, and services.

or

If the same services were maintained in the schools it would mean an increase in the tax rate from $5.529 to $6.267, a .738 cent increase. That increase would cost a typical home owner $147 more each year.

Alameda, like many cities in the area, has little vacant land for growth. The taxable base is limited to what lands we have today. I urge this committee to continue funding Impact Aid for all categories of students in the best interest of an educational program for the children we serve.


CITY OF ALAMEDA
AND
VICINITY
1977
ALAMEDA HARBOR
SAN FRANCISCO BAY

7172 – 303

HOLD HARMLESS CLAUSES

Section 302(b)(2) of P.L. 93-380 established four hold harmless or phase-out provisions to protect recipients of Impact Aid funds from sudden and substantial losses of revenue. The underlying principle of these clauses is the fact that in school districts, as in industry, the school year is not a self contained financial unit. Most personnel services a school district receives (teaching, maintenance, etc) are contractual; the district must continue to receive and pay for those services for the term of the contract, whether they are needed or not. Tenure and similar laws in many states require that certain contracts be automatically renewed. In addition, buildings, books, materials, and equipment are expected to last for a number of years, and costs are amortized accordingly. These resources, once purchased, must be paid for, whether they are used or not. Thus, the expense of preparing to educate a certain number of children will be incurred whether those children actually attend classes, or are moved out of the district; and the expenses will continue several years after the children are gone.

Section 302(b)(2)(A) - Phase-out clause A - is a general section, designed to protect all districts from severe losses of funds. This section guarantees that no district will receive less than 80% of the previous year's amount of Impact Aid. (If the district received 10% or more of its revenues from Impact Aid, the guarantee is 90%) This clause was intended to phase out payments to those districts that for some reason fail to qualify, but still have federal children, and those districts where a significant change in the level or nature of the federal activity sharply reduces the number of federal children from one year to the next.

In light of the ever changing activities of the federal government, it is necessary that such a provision remain in the law as long as the federal government is the cause of abnormal expansions and contractions in local school systems. It has a responsibility to see that such expansions and contractions are orderly and cause as little disruption as possible to the educational process.

Sections 302(b)(2)(B) and 302(b)(2)(C) - Phase-out clauses B and C - are based on the same rational as phase-out clause A, but are intended to counter extreme losses of funds due to two specific causes - military base closings, in the case of phase-out clause B, and loss of entitlements for out-of-state civilian B students in the case of phase-out clause C.

Phase out clause B provides that if a school district looses 10% or more of its federally connected children due to a reduction or a termination of activity at a federal military installation, then payments under Impact Aid to that school district shall not be less than 90% of that district's entitlement for the previous year. This phase-out clause must be continued to aid those school districts who have expanded their capacity in order to accomodate the dependents from federal military installations in their transition back to a civilian community.

Phase-out clause C provides that if 10% or more of a district's category B children are so-called "out-of-state" or "out-of-county" B's, then the amount of that district's category 3(b) payment shall not be less than 90% of the previous year's category 3(b) payment. The 1974 amendments made the out-of-state B's ineligible for Impact Aid, and reduced entitlements and payments for out-of-county B's. Because of the great numbers of these students in some districts and the severe effects of such a sudden change, clause C was enacted to phase out these students rather than precipitously eliminate them. Phase-out clause C should be continued until the orderly transition has been completed.

Section 302(b)(2)(D) - Hold Harmless D - is really an anti-dilution clause, rather than a phase out. The Congress realized that the inclusion of from 700,000 to 1,000,000 new students in Impact Aid funding under the low rent public housing provisions would have to be at the expense of the other Impact Aid districts unless some sort of protection was provided. Hold Harmless clause D was enacted to guarantee that the old Impact Aid districts would still receive as much money after the inclusion of the low rent public housing children as they would have received if these students had not been added to the program. Congress should continue this provision to ensure that one poor district is not robbed to provide funds for another poor district.